

Agenda

Audit and governance committee

Date: **Wednesday 14 October 2020**

Time: **10.30 am**

Place: **Online meeting only**

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 Nigel Shaw
Vice-Chairperson	Councillor Christy Bolderson

Councillor Dave Boulter
Councillor Peter Jinman
Councillor Bob Matthews
Councillor Diana Toynbee
Councillor Yolande Watson

Agenda

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2. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of members nominated to attend the meeting in place of a member of the committee.	
3. DECLARATIONS OF INTEREST	
To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.	
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To approve and sign the minutes of the meeting held on 25 September 2020.	
5. QUESTIONS FROM MEMBERS OF THE PUBLIC	
To receive questions from members of the public.	
<i>Deadline for receipt of questions is 5.00 pm on 8 October 2020 (3 clear working days from date of meeting).</i>	
<i>Questions must be submitted to councillorservices@herefordshire.gov.uk.</i>	
<i>Questions sent to any other address may not be accepted.</i>	
<i>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 https://www.herefordshire.gov.uk/getinvolved</i>	
6. QUESTIONS FROM COUNCILLORS	
To receive any questions from councillors.	
<i>Deadline for receipt of questions is 5.00 pm on 8 October 2020 (3 clear working days from date of meeting).</i>	
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The public's rights to information and attendance at meetings

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. This meeting will be broadcast live on the Herefordshire Council's YouTube channel. Link: <https://www.youtube.com/HerefordshireCouncil>
- Inspect agenda and public reports at least five clear days before the date of the meeting via the website.
- 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.
- 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.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- 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 and copy documents.

Recording of this meeting

Please note that the council will be making an official recording of this public meeting. These recordings form part of the public record of the meeting and are made available for members of the public via the council's website.

To ensure that recording quality is maintained, could members and any attending members of the public speak as clearly as possible and keep background noise to a minimum while recording is in operation.

Please also note that other attendees are permitted to film, photograph and record our public meetings provided that it does not disrupt the business of the meeting.

If you do not wish to be filmed or photographed, please identify yourself so that anyone who intends to record the meeting can be made aware.

Please ensure that your mobile phones and other devices are turned to silent during the meeting.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

Guide to Audit and Governance Committee

The Audit and Governance Committee is a non executive committee of the council. The committee consists of 7 non executive councillors and may include an independent person who is not a councillor.

Councillor Nigel Shaw (Chairman)	Conservative
Councillor Christy Bolderson (Vice Chairman)	Conservative
Councillor Dave Boulter	It's Our County
Councillor Peter Jinman	Herefordshire Independents
Councillor Bob Matthews	True Independents
Councillor Diana Toynbee	Green
Councillor Yolande Watson	Herefordshire Independents

The purpose of the audit and governance committee is to provide independent assurance on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes. The committee do this by:

- (a) ensuring the effective and fully compliant governance of the council and in particular to ensure that all aspects of the financial affairs of the council are properly and efficiently conducted;
- (b) reviewing and approve the council's annual governance statement, annual statements of account, the contract procedure rules and financial procedure rules;
- (c) scrutinise the effectiveness of, and management compliance with, the systems identified in the annual governance statement framework;
- (d) monitor the progress made by management in implementing improvements to elements of that framework identified by external or internal audit review; and.
- (e) reviewing the constitution and recommending any necessary amendments to Council as appropriate.
- (f) reviewing the corporate risk register

Who attends audit and governance committee meetings?

Members of the committee, including the chairman and vice chairman.
Officers of the council – attend to present reports and give technical advice to the committee
External advisors - attend to present reports and give technical advice to the committee
Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

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. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Minutes of the meeting of Audit and governance committee held at On line meeting only on Friday 25 September 2020 at 10.30 am

Present: Councillor Nigel Shaw (chairperson)
Councillor Christy Bolderson (vice-chairperson)

Councillors: Dave Boulter, Peter Jinman, Bob Matthews, Diana Toynbee and Yolande Watson

Officers: Solicitor to the council, Chief finance officer and Interim Head of Legal Services, corporate finance manager, acting expert advisor, special engineering projects and commissioning and contract manager

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES

RESOLVED:

That the minutes of the meeting held on 30 July 2020 be confirmed as a correct record and signed by the chairperson.

5. QUESTIONS FROM MEMBERS OF THE PUBLIC

Questions received and responses given are attached as appendix 1 to the minutes.

6. QUESTIONS FROM COUNCILLORS

There were no questions from councillors.

7. RE-THINKING GOVERNANCE

The solicitor to the council presented the report and highlighted that this represented extensive work undertaken by the cross-party re-thinking governance working group. The working group felt that after considering the feedback from all members and reviewing the issues, that the existing cabinet system could be improved. It was felt that there was benefit in improving the current system rather than move to a committee system which had a five year lock in period. The working group were also recommending that any changes were reviewed in one year's time to ensure that the changes had achieved their purpose.

It was noted that following a decision at Council in October 2020, there would be detailed work undertaken between October and May 2021 to re-write the Constitution.

It was further noted that it had been useful to have a cross party working group. It was hoped that the flexibility of recommendations could be taken advantage of.

The work had been and would continue to be undertaken collaboratively and members' views taken into account.

The solicitor to the council confirmed that if the May 2021 Council date was missed, then the next time Council would be able to vote on the matter would be at July Council.

It was anticipated that the work involved could be split into sub-divisions which would enable individual councillors to be involved in their areas of interests. The timing of these meetings would need to take into account the availability of councillors.

This was an opportunity to make changes which would ensure the engagement of the public and councillors.

A member of the committee suggested that as there were a number of newly elected councillors, it may be sensible that councillors observe more than the committee they sat on so that there was a broad understanding of how each committee worked.

It was noted that the working group represented membership from all political groups and it had unanimously resolved to support the recommendation to the committee.

RESOLVED that

having regard to the work undertaken by the Re thinking Governance working group, a hybrid cabinet model of governance be recommended to full Council with implementation with effect from annual council in May 2021.

8. EXTERNAL AUDIT PROGRESS UPDATE

It was noted that due to Covid-19 the external audit timetable had been extended to 30 November. The audit had been a slower process than normally expected but measures were now in place to progress it.

The effect of Covid-19 on the value for money opinion would be a factor for the 2020/21 audit.

The Redmond Review had been published and Grant Thornton would be presenting a report to the committee at its meeting on 14 October on the recommendations contained within the review.

Following a request from Grant Thornton, the council had amended information in a couple of areas (details contained on page 44 of the agenda pack). It was reported that there were no common threads as to the areas which had been requested to be amended.

Grant Thornton confirmed that they were no difficulties in obtaining the information required for the audit and there were secure file sharing processes in place.

It was noted that there would be uncertainty over property valuations for some time but this would have very little direct impact on councils as property valuations do not drive

council tax levels. However, Grant Thornton would urge caution in connection with the valuation of commercial property.

Following a query from a member of the committee, it was confirmed that there would be 6-9 months' notification of any potential issues in connection with a S114 judgement. Details would come through Cabinet, Audit and Governance Committee and other committees. It was noted that the council would have to make tough budgeting decisions due to the Covid-19 but the Chief Finance Officer was comfortable that there were sufficient reserves and that the council were engaging with stakeholder groups, including Government. The position was being actively monitored.

Following a query from a member of the committee, it was confirmed that there was liaison between internal and external audit. The internal audit plan was developed on a risk basis and that a number of sources were used in developing the plan. There would be audits where no control issues had been identified. If this was the case, then the area would not be audited for approximately 3 years.

RESOLVED that

the progress report and sector update attached at appendix 1 was reviewed.

9. INTERNAL AUDIT ANNUAL REPORT AND OPINION 2019/20

South West Audit Partnership presented the report and highlighted that:

- The annual opinion was to support the annual governance statement.
- The sources used to inform the opinion were contained within the report. .
- The senior management team were supportive of SWAP's recommendations and that there was a good relationship with senior management.
- There had been a significant increase in advisory audits.
- There had been a decrease in partial assurance audits (10.5% down from 18% in the previous year).
- The number of priority findings had increased.
- There were findings that the governance processes were not being followed in capital projects and record of officer decisions. This was an area for improvement which the council had identified and there were revised arrangements in place. A member of the committee commented that it was good to see that these areas were still being raised but they believed there had been an improvement.

In discussion of the item, the following points were discussed:

- That there had been some areas of duplication and fraudulent activity with regard to the small business grants. An update on the work in connection with counter fraud would be provided to the committee at its next meeting.
- An advisory audit was undertaken as there was perceived to be a weakness or risk in the service area. This then supported the manager in their understanding of the weakness and the recommendations in place to improve the service area.
- The annual audit opinion took into account all audits.
- Priority 1 and 2 findings of all audits were reported to the committee.
- Advisory audits were equally as important as substantive audits as they potentially targeted higher risk areas.
- The number of advisory audits was closely monitored.
- As the financial year progressed, there will be changes to the internal audit plan due to a request to look at a particular area. At this stage, there would be a discussion about whether it would be undertaken as an opinion or advisory audit.

- An opinion audit could change into an advisory audit. SWAP would prefer to provide an opinion, but they would not wish to discourage officers from approaching them to undertake audits where they thought there may be weaknesses. An audit opinion gave the committee better assurance and understanding of what was going on irrespective of whether an officer had highlighted concerns. Advisory audits did not provide an opinion as to the level of assurance.
- The members expenses audit was briefly discussed and SWAP confirmed that there had been a number of findings which had been reported to the committee. It was agreed that a copy of the report would be circulated to committee members.
- The HomePoint award of system contract was discussed. This was an allocation system which displayed available social housing operated by the various housing association trusts operating within Herefordshire. The committee were grateful for the audit raising points which required more scrutiny in the decision making process.
- SWAP did try to highlight where there had been similar recommendations from past audits.
- It was agreed that the review date of the next service level agreement with SWAP would be provided to the clerk so that an agenda item could be added to the appropriate committee year and / or date.
- If an audit had been deferred and replaced by other work in the year, it would be considered in the following year's plan.

RESOLVED that:

- (a) The members expenses audit to be shared with the audit and governance committee members.**
- (b) Officers consider and bring back to the committee a process of advising the audit and governance committee of a change from an audit opinion report to an advisory audit.**
- (c) Officers to include details of similar recommendations from previous internal audit recommendations in the summary provided by South West Audit Partnership**
- (d) Officers to let the clerk to the committee know when the SLA with SWAP is to be reviewed so that an item can be included in the work programme for the relevant municipal year.**
- (e) SWAP to provide details of the number of responses received from officers in relation to internal audits with regard to the audits undertaken.**

10. PROGRESS REPORT ON 2020/21 INTERNAL AUDIT PLAN PROPOSED REVISED INTERNAL AUDIT PLAN 2020/21

SWAP presented the report and highlighted:

- Three audits had been completed; 2 were at report stage and that 9 were in progress.
- An additional audit in connection with commissioning and value for money – BBLP had also been completed.

Procurement Cards

Following a query from a member of the committee, the corporate finance manager confirmed that an email reminder had been sent out to 130 people who possessed a procurement card as this was the most appropriate way to undertake the action. A sharepoint site had now been set up for procurement card holders to upload receipts. There were other controls in place which included testing by the team. Spend had always been monitored but receipts had not been checked.

If there was a failure to follow the appropriate processes, the advice from internal audit had been to monitor the situation for 3 months and if there were persistent offenders then the appropriate HR process should be followed. It was also noted that the relevant line manager would be notified at an early stage. It was noted that the maximum per month that could be spent was £15k with a single item maximum of £5k. Any extraordinary spend would also be highlighted.

It was confirmed that managers are trained and do understand their financial responsibility.

Commissioning and Value for Money – BBLP

The number of recommendations and findings in connection with the commissioning and value for value – BBLP audit did not necessarily correlate with the findings of the external consultant report which had been presented to Cabinet on 24 September 2020. SWAP confirmed that they had seen the draft external consultant's report. It was noted that there were links between the two reports and that Cabinet would be monitoring the improvement plan in six months' time. SWAP indicated that there could be a request at some point from the Chief Finance Officer as to the progress on the implementation of the external consultant's recommendations.

As it was approaching the 3 hour time limit on public meetings, it was agreed that meeting would continue to 1.45 pm but that the Energy from Waste item and the work programme would be deferred to the meeting due to be held on 14 October 2020.

Following a query from a member of the committee, it was explained that due to Covid-19 there had been delay with regard to the decision in connection with the contract extension. However, it was confirmed that this decision would be completed in an appropriate fashion by the November 2020 deadline. The chief finance officer reminded the committee, that Cabinet had considered a performance report in connection with BBLP.

In response to a query from a member of the committee, it was agreed that the chairperson and solicitor to the council would consider requesting that the General Scrutiny Committee scrutinise the council's preparedness for Brexit as it was a risk to the council. It was noted that the critical details were still awaited from government.

Revised internal audit plan for 2020/21

It was agreed that this section of the report be deferred until the meeting on 14 October 2020 at 10.30 am.

RESOLVED that:

- a) **Chair and the monitoring officer to consider asking General Scrutiny Committee to scrutinise the council's preparedness for Brexit and to raise the matter with the chief executive.**
- b) **Members of the committee be provided a copy of the Commissioning and Value for Money – BBLP.**

11. ENERGY FROM WASTE LOAN UPDATE

This item was deferred to the meeting due to be held on 14 October 2020.

12. ANNUAL REPORT ON CODE OF CONDUCT

The solicitor to the council presented the report and introduced the two independent persons for standards, Claire Jenkins and Jake Bharier, who were available to answer questions.

The following points were highlighted:

- Support from independent persons to councillors subject to complaints was now available.
- A review of the arrangements would be taking place with the independent persons for standards.
- There had been an increase in allegations of a failure to declare an interest.
- Other course of action had been used in clusters of complaints in parish councils.
- The standards panel had reviewed 28 complaints and that there was a good level of assurance in the complaints process.

Following a query from a member of the committee, the solicitor to the council confirmed that if a parish council goes inquorate, then as a principal authority, Herefordshire Council, would need to step in.

It was also confirmed that if there were complaints about the monitoring officer, then the corporate complaints process could be used. If there were complaints about the process used to determine complaints, then the complainant or subject member could appeal and if it met the criteria a standards panel would be convened to hear the appeal.

It was explained that there were regular IP conferences which provided an opportunity to ensure that best practice was being used and to demonstrate that there was a shared learning experience and that there was continuous improvement.

The independent persons were thanked for their time.

It was agreed that the parish councils would be consulted on the arrangements for dealing with code of conduct complaints.

RESOLVED that:

- (a) the recommendations from the standards panel advising this committee (appendix 1), following their annual sampling exercise, are considered and are adopted as appropriate into the action tracker**
- (b) summary of the Nolan principles could be included in the agenda papers for Herefordshire Council committee agendas and to encourage parish council to adopt the same approach.**
- (c) The parish councils be consulted on the arrangements for dealing with code of conduct complaints.**

13. WORK PROGRAMME UPDATE

This item was deferred to the meeting due to be held on 14 October 2020.

The meeting ended at 13.52pm

Chairperson

**PUBLIC QUESTIONS AND ANSWERS TO
AUDIT AND GOVERNANCE COMMITTEE
25 SEPTEMBER 2020**

Ms J Morris, Hereford

Question:

The recommendations of the Blueschool House are being followed in relation to all the major transport projects. Major transport projects are managed using the councils' project management system 'Verto' and overseen by a Major Infrastructure Delivery Board." In view of the answer provided just 12 months ago, which capital projects and contracts have failed to follow the Blueschool House recommendations and will those be subject to further internal audit?

Answer:

There are no specific projects that do not follow the recommendations however the major contract review has highlighted improvements that can be made in managing the contract. A plan on implementing these improvements will be considered by Cabinet.

Ms K Sharp, Hereford

Question:

Grant Thornton makes reference to their growth report 'Unleashing counties' role in levelling up England. This measures Growth by Gross Added Value (GVA). Herefordshire on a GVA basis is assumed to perform at a low level of growth compared to the rest of the Country. Do the committee think GVA this is the best measure of the performance of a Council, or when considering the costs of the impacts of climate change, should this be balanced with measuring a county's contribution to minimising carbon emissions; protecting the environment; providing good quality of life, and good health outcomes (physical/mental) of its residents?

Answer

GVA is a generally accepted benchmark for comparison purposes. The Council however has adopted a corporate plan and would measure success against the performance indicators derived from this plan. These performance indicators are reported quarterly to Cabinet and include the suggested points identified in your question.

Ms J Richards, Hereford

Question:

Page 5 of the internal Audit report 2020/21 states "there has again been findings where governance processes or guidance are not always followed to ensure compliance with

existing procedures in place across the Council. A number of findings relate to capital projects and contracts and particular to Record of Officer Decisions and whether value for money can be demonstrated. Management is responsible for ensuring compliance to policies and procedures and should have oversight to address non-compliance". This Committee was previously reassured that the lessons on Blueschool House had been learnt, yet this report indicates otherwise. What is senior management doing to address the failure of officers to follow policies and procedures?

Answer:

The internal audit report relates to 2019/20. The role of internal audit is to identify issues such as non-compliance and then for actions to address these failures to be agreed and implemented. The sentence referred to in your question starts with the explanation "no areas of significant corporate risk have been identified" however the organisation revised its policies and procedures and expects all officers to comply with these therefore any deviation is dealt with promptly and a remedial action plan agreed swiftly to address any failings discovered.

Mrs E Morawiecka, Breinton

Question:

The Internal audit work on the South Wye Transport Package gives an Advisory report on the Phase 1 audit in respect of governance, where 7 recommendations have been made. A Partial report issued on the Operational audit of the SWTP gives a further 7 recommendations. These are the highest number of recommendations for any of the internal audit work items. In view of the massive overspends of public money on the SWTP, including the use of a £5million pothole grant from central Government, what are the issues identified by the Internal Auditor that gave rise to these 14 recommendations on just one capital project, as this information does not appear in the public domain?

Answer:

The agenda includes a summary of the audit reports that have been presented to the Audit & Governance committee.

The South Wye Transport Package Phase 1 – Governance reviewed the governance processes in relation to the decision to continue to tender and issue the Invitation to Tender in August 2018. The key findings from the report were reported to the Audit and Governance Committee on 24 September 2019 as part of the Internal Audit Progress Report.

Due to the COVID 19 Pandemic there were delays in finalising the report for the South Wye Transport Package Phase 2. A position statement was provided to the Audit and Governance Committee members on 3 August 2020 reporting on the findings from the audit as below.

The South Wye Transport Package (SWTP) Phase 1 Final Report was issued on 24 September 2019, it is recognised that work has been completed to outline appropriate controls to previous recommendations and work has commenced to implement these controls.

Partial assurance has been identified for the SWTP Phase 2 audit due to:

- the proposed controls in response to the Phase 1 recommendations have been developed and are in the process of being implemented but are not complete, and

- additional control weaknesses being identified.

Evidence from the current review and an update from the Acting Assistant Director for Highways and Transport and Infrastructure Manager indicates that three of the four recommendations from the previous audit, SWTP Phase 1 are not complete and a revised implementation date is required. It is noted that full completion of the recommendations requires alterations to the Councils Financial Management System to allow for escalation and recording of comments and allowing a period of time for the control frameworks to embed.

This phase 2 review of project governance for the SWTP was for the period May 2018 to October 2019 and the following control weaknesses were identified.

There is a lack of utilisation and management of the SWTP through the Council's project management software Verto. Although it is recognised discussions have taken place and are still ongoing between the Councils Corporate Project Team and Infrastructure Delivery Team to consider how the existing control framework of Early Warning Notices (EWN's) via the Councils financial management system will synchronise/link with Verto.

There is also a lack of information or there are issues with accuracy and consistency of information across the following areas:

- Project Sponsors information
- Assumptions details
- Issue and action logs
- Minutes and agendas

Control frameworks to minimise the possibility of operational decisions not being recorded and risks not being identified are in place via the existing early warning notice (EWN) process. It is however noted that the system process requires development to ensure sign off and escalation are part of this framework.

Procurement processes regarding the use of three consultants to the total value of £62,286 have not been followed appropriately, it is noted one of these was procured outside of the scope of the audit however further payments were made to the supplier within the scope timeframe.

Supplementary question

Thank you for the very comprehensive answer to my question. It reinforces my concerns of poor financial management of large, Capital Transport projects over a number of years. 75% of the recommendations on the SWTP Phase 1 internal audit on governance, made over 12 months ago are still not complete and since then there has been a "partial" internal audit report on the Phase 2 internal audit. It seems that there is an inability of officers on the SWTP to follow recommendations about delivering value for money for the taxpayer and following procurement processes, even after the Blueschool House recommendations. 3 consultants have been used at a cost of £62,286 without proper procurement. When did this procurement happen and what actions are being taken, particularly around capital transport projects, to ensuring value for money for the taxpayer by officers following Council rules?

Answer:

A written response will be provided within 10 working days.

	COMPLETED ACTIONS WILL BE MOVED TO THE 'REPORTED COMPLETE' TAB ONCE THEY HAVE BEEN NOTIFIED AT AUDIT AND GOVERNANCE							
Action Number	Meeting Date	Agenda Item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
2	19 November 2019	7	Training on the Redmond Review	Grant Thornton	Corporate Support Centre	Grant Thornton to provide dates. Suggested 14 October 2020 as part of committee meeting.	14 October 2020	Yes
16	28 January 2020	10	Direction of travel arrows on the annual governance statement (AGS)	Chief finance officer	Corporate Support Centre	To be included as part of the AGS report in November 2020	19 September 2020	
17	28 January 2020	10	As part of next year's AGS report, a review of previous three years be included	Chief finance officer	Corporate Support Centre	To be reported on as part of the AGS report in November 2020	19 September 2020	
19	28 January 2020	10	Insert into contracts the ability to audit them, specifically contracts on a framework which had specific costs plus margins.	Chief finance officer	Corporate Support Centre	To be reported on as part of the AGS report in November 2020	19 September 2020	
22	18 January 2020	11	Better articulation as to why red risks are on directorate risk register and not on a corporate risk register	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
24	28 January 2020	11	Details on how risks on decision reports feed into the appropriate risk registers	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
26	18 January 2020	11	Consideration be given to including risks which would jeopardise the achievement of corporate objectives and that there were strategic linkages these be identified	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
27	18 January 2020	11	Chief executive to ensure that the corporate risk register was at the top / near the top of senior managers agenda	Chief Executive	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
29	28 January 2020	11	Clarification on the escalation and de-escalation process	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
30	28 January 2020	12	Corporate and directorate risk registers amended to reflect the mitigating factors in connection with the changes to the contract and finance procedure rules	Head of corporate performance	Corporate Support Centre	An update will be provided as part of the corporate risk report report due to be presented to the committee in November 2020	17 November 2020	Yes
47	30 July 2020		Appendices be included to provide an explanation of the assumptions which have been made in the risk management plan. These appendices to include worked examples from each directorate and include SMART mitigating actions.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
48	30 July 2020		The risk criteria are better define within the risk management plan.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
49	30 July 2020		If when working through the examples and undertaking a dry run of the framework, issues are identified, that there is consideration that they are added to the impact of the risk.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
50	30 July 2020		If during the dry run of the new plan that if there are any relevant issues that they would be added into the document.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
51	30 July 2020		An annual risk comparison is undertaken by the corporate support centre and reported to the committee.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes

Action Number	Meeting Date	Agenda Item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
52	30 July 2020		The impact of the risk to children, young people and vulnerable adults is expressly included within the revised risk management plan.	Head of corporate performance	Corporate Support Centre	Additional development undertaken, PMF Updated and signed off by Cabinet in September	17 November 2020	Yes
57	30 July 2020		Discussion with S151 officer and SWAP re inclusion of public health budget in internal audit plan	SWAP/S151	Corporate Support Centre	Discussion has taken place. Further discussion to take place about inclusion in Q4.	31 January 2020	Yes
58	25 September 2020		The members expenses audit to be shared with the audit and governance committee members.	SWAP	Corporate Support Centre	Completed - circulated on 5 October 2020	N/A	Yes
59	25 September 2020		Officers consider and bring back to the committee a process of advising the audit and governance committee of a change from an audit opinion report to an advisory audit.	SWAP/S151	Corporate Support Centre		09 October 2020	
60	25 September 2020		Officers to include details of similar recommendations from previous internal audit recommendations in the summary provided by South West Audit Partnership	SWAP/S151	Corporate Support Centre		09 October 2020	
61	25 September 2020		Officers to let the clerk to the committee know when the SLA with SWAP is to be reviewed so that an item can be included in the work programme for the relevant municipal year.	S151	Corporate Support Centre		09 October 2020	
62	25 September 2020		SWAP to provide details of the number of responses received from officers in relation to internal audits with regard to the audits undertaken.	SWAP	Corporate Support Centre	53 feedback questionnaires sent out – 33 returned	N/A	Yes
63	25 September 2020		Chair and the monitoring officer to consider asking General Scrutiny Committee to scrutinise the council's preparedness for Brexit and to raise the matter with the chief executive.	SWAP	Corporate Support Centre		09 October 2020	
64	25 September 2020		Members of the committee be provided a copy of the Commissioning and Value for Money – BBLP	SWAP	Corporate Support Centre	Circulated on 5 October 2020	N/A	Yes
65	25 September 2020		Summary of the Nolan principles could be included in the agenda papers for Herefordshire Council committee agendas and to encourage parish council to adopt the same approach.	Solicitor to the Council	Corporate Support Centre	Request sent to the democratic services manager to include the Nolan principles in all public committee papers.	N/A	Yes
66	25 September 2020		The parish councils be consulted on the arrangements for dealing with code of conduct complaints.	Solicitor to the Council	Corporate Support Centre	Completed - letter sent to clerks of town and parish councils in Herefordshire on 30 September 2020.	N/A	Yes
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Action Number	Meeting Date	Agenda Item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
82								
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Meeting:	Audit and governance committee
Meeting date:	Wednesday 14 October 2020
Title of report:	Proposed revised internal audit plan 2020/21
Report by:	Chief finance officer / Head of internal audit

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To be assured that the level and range of activity within the proposed revised annual internal audit plan is sufficient to provide assurance over the council's corporate governance arrangements and provides appropriate coverage of key business activities, associated risks and risk management processes.

Recommendation(s)

That:

- (a) the proposed revised internal audit plan 2020/21 be reviewed and the committee determine any recommendations it wishes to make regarding the level and range of activity proposed in order that the work carried out may give a satisfactory level of assurance over the council's corporate governance arrangements

Alternative options

- 1 There are no alternative recommendations; it is a function of the committee to consider these matters in fulfilling its assurance role.

Further information on the subject of this report is available from

Jacqui Gooding, email: Jacqui.Gooding@swapaudit.co.uk

Key considerations

2. The internal audit plan for 2020/21 was approved by the audit and governance committee on 5 May 2020. Clearly a lot has changed since that date, and as such, an updated and proposed revised annual audit plan for the remainder of 2020/21 has been prepared following consultation with the chief finance officer and shared with the management board. The proposed revised annual internal audit plan sets out the work required for internal audit to give an opinion on the adequacy and effectiveness of the council's risk management, governance and internal control arrangements.

Community impact

3. 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.

Equality duty

4. 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.
5. 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 progress report, we do not believe that it will have an impact on our equality duty.

Resource implications

6. 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

7. None

Further information on the subject of this report is available from

Jacqui Gooding, email: Jacqui.Gooding@swapaudit.co.uk

Risk management

8. 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 progress against the agreed internal audit plan.
9. Risks identified by internal audit are mitigated by actions proposed by management in response. Progress on implementation of agreed actions is reported to this committee every six months.

Consultees

10. None

Appendices

Appendix A – Proposed Revised Internal Audit Plan 2020/21.

Background papers

None

Appendix A

Herefordshire Council

Report of Internal Audit Activity

Proposed Revised Internal Audit Plan 2020/21

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Contents

The contacts at SWAP in connection with this report are:

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Background



Proposed Revised Internal Audit Plan 2020-21

As a result of the COVID-19 pandemic, SWAP has had to adapt and change its focus in the short-term.

This has involved audit work redirected to provide support and assurance for COVID-19 processes to assist with the response to the huge challenges faced.

With the Authority moving into a recovery phase from COVID-19, we are now looking to re-commence audit work in some areas.



Background

The internal audit plan for 2020/21 was approved by the Audit and Governance Committee on the 5th May 2020.

Clearly a lot has changed since that date, and as such, an updated and proposed revised audit plan for the remainder of 2020/21 is provided below. The plan that had previously been prepared is likely to remain relevant in many respects, but the huge effort the Authority is undertaking in relation to response and recovery from the COVID-19 pandemic is likely to push back a significant proportion of this work. As such an updated plan has been prepared following consultation with the Chief Finance Officer.

Internal audit continues to respond to request to support COVID-19 work and this will continue to cause some disruption to the plan particularly where there is a definitive date for a declaration to the relevant Government department.

The plan will continue to be reviewed as the year progresses and changes to the plan will be reported to this committee in my Internal Audit progress update reports.

When reviewing the proposed revised internal audit plan, key questions to consider include:

- Are the areas selected for coverage this year appropriate?
- Does the internal audit plan cover the organisation's key risks as they are recognised by the Management Board and Audit and Governance Committee?
- Is sufficient assurance being received within our annual plan to monitor the organisation's risk profile effectively?

The proposed revised plan identifies where it is suggested to move audits to 2021/22 and includes the additional audits that have already been added to the plan for 2020/21.

Proposed Revised Internal Audit Plan 2020-21

It should be noted that the audit titles and high-level scopes included below are only indicative at this stage for planning our resources. At the start of each audit, an initial discussion will be held to agree the specific terms of reference for the piece of work, which includes the objective and scope for the review.

Link to Corporate Ambition/ Corporate Risk Register	Areas of Coverage	Brief Description	Priority (H, M, L)	Status
Corporate Centre (including ICT)				
Environment, Community, Economy CRR.10 CRR.23	Key Financial Controls Accounts Payable Main Accounting - Follow Up Payroll Accounts Receivable Capital Accounting Council Tax NNDR - Business rates avoidance Treasury Management - Follow Up Housing and Council Tax Benefits	Review of key financial system to provide assurance on effectiveness of controls and management of risks remaining with the Council. The work will assess responses to previous audit coverage and any changes to the control environment. The audit work will also include the use of data analytics.	High	Not Started
Accountable Body Requirement	NMITE Project (University)	Final review to cover February/March 2020	High	Completed
Environment, Community, Economy CRR.24 CRR.23 CRR.20	MTFP	The revenue and capital budgets are set following a robust process using sound and realistic assumptions.	Medium	Not Started
	Commercial Investments	The acquisition of commercial property has become a significant area of activity for some authorities in recent years. Local authorities acquire commercial property for a variety of reasons, but yield is currently an important factor.	Medium	Not Started
	Balfour Beatty Contract 1 year (minor to major repairs)	Review of compliance with contract.	High	Not Started

	Councillor Allowances Overspend	Review of allowances with Members Expenses follow up	Low	Defer to 2021-22
	Voting restrictions for Members	Review of process and how this is monitored.	Low	Defer to 2021-22
Environment, Community, Economy CRR.10 CRR.23 CRR.15 CRR.26 CRR.09	Staff Car Parking - Business passes	Review of process.	Low	In Progress
	Better Ways of Working (BWOW)	Review of BWOW principles and delivery of agreed programme. Deferred from 2019-20	Medium	Defer to 2021-22
	Risk Management	Last reviewed in 2014. Is the Risk Management Framework in place effective and appropriate for managing and monitoring risk?	Medium	Defer to 2021-22
	Strategic/Significant Partnerships	Review the governance arrangements in place between the council and Significant Partners to ensure they support effective transparency and communication and there are adequate contractual or partnership arrangements in place.	Medium	Not Started – planned for quarter 2
	Brexit Preparedness	Is the council prepared for the opportunities and risks that Brexit will bring? Are the short and long term issues that matter most to communities being addressed.	Deferred from 2019/20. Agreed with the Chief Finance Officer. Medium	Not Started
Environment, Community, Economy CRR.13 CRR.25	Cyber Security Framework	This review covers 20 key controls regarding cyber security and allows senior and strategic management to assess risk from a high level and provide requirements or challenge to the ICT provider or service. This review is being undertaken across SWAP partners so can facilitate future benchmarking. A continuous audit approach will be applied to update the results of this review annually.	High	Not Started – planned for quarter 2
	ICT Governance Risk Review	A high-level holistic risk review covering ICT Governance, Infrastructure and Enterprise. This allows senior and strategic management to gain exposure to current ICT risks and to inform future value added ICT audit.	High	Not Started
	Schools Educational visit service	Review of Health and Safety advice to Schools and process for school buy in.	Low	Defer to 2021-22

Environment, Community, Economy CRR.12 CRR.23 CRR.10 CRR.29	Staff benefit scheme	Scheme has been running since July 2019. Review of scheme and accuracy of data - is the scheme delivering the benefit intended.	Low	Defer to 2021-22
	Employee Expenses	Review of automated approval process for expenses under £100. Assurance that self-certification is complying with guidance. Use of Data Analytics Proactive Fraud Work	Medium Use of Data Analytics Proactive Fraud Work	Defer to 2021-22
	Leavers Process	Review of adequacy of process. Previous weaknesses identified in process.	Medium	Defer to 2021-22
Economy and Place				
Environment, Community, Economy CRR.14 CRR.27 CRR.20 CRR.10 CRR.11 CRR.18	Development Regeneration Programme	Scope to be agreed.	Medium	Defer to 2021-22
	Local Transport Block Funding	Grant Certification	High	In Progress
	Bus Subsidy Grant	Grant Certification	High	In Progress
	Bellwin /Resilience Management	Grant Certification	High	In Progress
	Commercial Properties/Rents	Review of the processes and procedures in place for commercial rentals owned and managed by Herefordshire Council. Areas to review - setting of rents and payment terms; discounts; invoicing and debt recovery; write-offs; vetting; rent reviews; tenancy starts and terminations and lease contents. Last reviewed in 2015-16.	Medium	Not Started - planned for quarter 2
	Herefordshire Waste Contract	Herefordshire Council and Worcestershire County Council waste treatment, recycling and disposal services are managed by Mercia Waste Management. What assurance do the council have that the contract is delivering against service expectation, contract delivery.	Medium	Defer to 2021-22
	S106 Agreements	Review of expenditure against s106 agreements - Covers all aspects of s106's not just E&P so include children. Focus on delivery against commitments.	Medium	In Progress

	Climate Change	Herefordshire Council has been working to reduce greenhouse gas emissions by 40% between 2008/09 and 2021, with a new aspirational target for achieving carbon neutrality by 2030. Review of the obligations and processes around carbon management.	Medium	Defer to 2021-22
	Emergency Planning	Review of Emergency Planning response	High	Not Started
	Capital Programme/Capital Projects	Capital Programme - to review a sample of projects across each Directorate.	High	Not Started
Adults and Communities				
Community Ambition CRR.23 CRR.17 CRR.10	Care Providers - risk of fraud.	What assurances do the Council have care is provided as per contract/agreement and the individual annual care plan. Proactive Fraud Work	Medium	Defer to 2021-22 Director of Adults and Communities advised unable to progress this year.
	Care Panel.	Assurance around the process – is it effective?	Medium	Defer to 2021-22 Director of Adults and Communities advised unable to progress this year.
	Support to self-funders.	What is the level of support provided by the Council and how does it compare to other LA's – to include cross partner comparison report.	Medium	Defer to 2021-22 Director of Adults and Communities advised unable to progress this year.
	Integrated Short-Term Support and Care Pathway - Carers Assessment	Pathway, system changes and a new contract in place. Deferred from 2019-20 to allow for implementation of new contract.	Medium	Defer to 2021-22 Director of Adults and Communities advised unable to progress this year.

	Integrated Short-Term Support and Care Pathway phase 4 Housing Pathway	Deferred from 2019-20. Is the Pathway prospective providing a customer journey with consideration of the system in respect of: <ul style="list-style-type: none"> • Moving at the right pace • Fit for purpose • Operating correct model of practice 	Medium	Defer to 2021-22 Director of Adults and Communities advised unable to progress this year.
	Client Finances	Client Finance System - Interface between all systems. Deferred from 2019-20.	Medium	Not Started
	West Midlands Peer Review	Compliance to peer review and progress against recommendations.	Medium	In progress
Additional Adults and Communities Audits				
Community Ambition CRR.23 CRR.17 CRR.10	Workforce Development	Is there a robust workforce development offer to support the frontline services and wider system appropriately? Can this be delivered in the new COVID 19 environment.	High	In Progress
	The Quality Development Framework	In order to establish adherence to the policy and best practice in supervision a quality audit programme was introduced. The purpose of this audit is to verify that the audit process is consistently applied so assurance standards are met.	Medium	Not Started not planned for quarter 3
	Oral Health Needs Assessment Plan	Comments expressed at "Q4" Cabinet. An audit of the progress made against the Oral Health Needs Assessment. It is worth noting that the plan was only completed at the end of 2019 and actually therefore runs from 2020 – 2023. We are technically therefore only at the end of Q2 of year 1 so SWAP may recommend delaying the audit until later in the year.	Medium	Defer to qrt 1 2021-22 this will then give a full year to review of progress against the plan.
	Supervision Practices	Review of performance – noticed there has been some slippage at the front door through the COVID-19 period.	Medium	Not Started planned for quarter 3
Children's and Families				
Community Ambition CRR.03	Troubled Families	Grant Certification review of claims monthly.	High	In Progress
	Schools thematic audit	Scope to include elements of SFVS and Prevention of Fraud	Medium	Defer to 2021-22

CRR.23	Schools - Off rolling.	Building upon the 19/20 schools exclusion work. Piece of work specifically on off rolling.	Low	Defer to 2021-22
	DP Pre Paid Cards	Review of controls for the use of and issue of pre-paid cards. Use of Data Analytics - Proactive Fraud Work.	Use of Data Analytics - Proactive Fraud Work. Medium	In Progress
	Accommodation based support service for care leavers with complex needs	Approach and accommodation for 16-18-year olds.	Medium	Defer to 2021-22
	EHCP (Education, Health and Care Plans)	Education, Health and Care (EHC) Plans are legally binding. A request for an EHC Needs Assessment is made where a child does not make expected progress following the Assess/Plan/Do/Review cycle and the special educational provision required cannot reasonably be provided from within the resources normally available to their educational setting.	Medium	Not Started
	Looked after Children and Complex Needs Children's Placements	A review of the process and the delivery of placements.	Medium	Defer to 2021-22
	Support for young people not in education, employment or training (NEET)	Review of support available - include care leavers and looked after children.	Medium	Not Started
Follow Up Audits				
Follow Up Audits	Members Expenses - Follow Up	Partial assurance 19/20. The work will assess responses to previous audit coverage and any changes to the control environment.	Medium	Not Started – Quarter 4
	CHC - Follow Up			
	SWTP Phase 1 - Follow Up			
	SWTP Phase 2 - Follow Up			
	RNCB Follow Up			
	Homepoint Follow Up			
COVID- 19 Audits Not in 2020-21 Original Plan				
CRR.23	Grant Funding Schemes Small Business Grant Fund / Retail,	Additional audit as a result of Government funding for small businesses.	High	Completed

	Hospitality and Leisure Grant Fund			
	COVID-19 Advice	Advice as requested	High	Ongoing
CRR.20	Emergency Decisions - Decision Making	Review of changes to Emergency Decisions - for COVID-19	High	Discussion Document
CRR.23	Transport Contracts	Additional audit request to review payments for transport contracts in line with the variation to payments.	High	In Progress
CRR.23	Procurement Cards	Review of use of Procurement cards during COVID-19	High	Completed
CRR.23	Local Transport Authority Covid-19 Bus Service Support Restart (Revenue) Grant (CBSSG)	Grant Determination	High	Not Started
Additional Audits requested by the Chief Finance Officer				
CRR.20 CRR.23 CRR.10	Gypsy and Traveller Sites – Special Investigation	Special Investigation	High	Draft Report
	Hereford City Centre Transport Package	Review of spend against 2015 business case - 9 deliverables in the business case - £46M project.	High	In progress
CRR.23	Loss of Monies - Childrens and Families – Special Investigation	Special Investigation	High	In progress
CRR.20 CRR.10	Contract Management – Public Realm Contract	Review of contract management for Public Realm Contract.	High	Not Started



Meeting:	Audit and governance committee
Meeting date:	Wednesday 14 October 2020
Title of report:	Energy from waste loan update
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To provide assurance to the audit and governance committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.

Herefordshire and Worcestershire are partners in a joint waste disposal private finance initiative contract that was varied in May 2014 to enable the councils to finance the construction of an Energy from Waste plant through the use of prudential borrowing. A total loan facility was agreed at £163.5m, with Herefordshire providing 24.2% of the loan value, being £40m.

The current status of the loan arrangement is considered satisfactory.

Recommendation(s)

That:

- (a) the risks to the council, as 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 this 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 Herefordshire Council, in partnership with Worcestershire County Council, entered into a 25 year contract with Mercia Waste Management Limited for the provision of an integrated waste management system using the Private Finance Initiative.
3. A variation to the contract was signed in May 2014 to design, build, finance and operate an Energy from Waste plant. Both councils provided circa 82% of the project finance requirement from their own planned prudential borrowing with the remaining 18% being provided by the equity shareholders of Mercia Waste Management Limited.
4. This report ensures the committee fulfils 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.
5. Since the last report to the committee in September 2019 the loan arrangement has continued to be repaid in line with expectations. No decisions or courses of action have been identified for recommendation to the committee.

Key loan features and update

6. Herefordshire and Worcestershire councils provided a loan facility of £163.5m in total, with Herefordshire providing 24.2% of the loan value, £40m.
7. Total loan interest and fees charged to Mercia are fixed and are representative of commercial bank charges. These total £69m, £17m for Herefordshire.
8. During the last year, since the previous report to the committee, loan repayments of £3.7m have been received, representing £1.5m in principal and £2.2m in interest. A summary of repayments received to date is shown in the table below:

Date	Interest (£m)	Principal (£m)	Total (£m)
December 2019	1.1	0.6	1.7
June 2020	1.1	0.9	2.0
Totals	2.2	1.5	3.7
Previous repayments received	5.4	3.2	8.6
Total to date	7.6	4.7	12.3

Covid 19 Impact

9. During March the effects of the Covid 19 pandemic began and on March 24th both Councils instructed Mercia Waste Management Limited (the Company) to close Household Recycling Centres (HRCs) in both Counties. During late March and early April the Company saw commercial waste volumes plummet and there were fears that waste collections would be reduced to a significant degree which could lead to problems having sufficient waste for the EfW to continue operating. The Company took measures including securing new temporary commercial waste contracts whilst the situation improved. There was an impact of staff availability due to self - isolation but this has been managed successfully. Nearly all HRCs have reopened albeit with restrictions on the number of cars on site and observance of social distancing measures. There has been no threat to the ability of the Company to continue to make the loan repayments falling due with the June loan repayment being paid as expected.

Assurance Statement

10. The company is required to produce a short, high level assurance statement with the aim being to reassure the Lender (the council) that there is no material matters which would impair Mercia's ability to repay the loan in accordance with the financial model in the coming period, this is attached at appendix 1. The Company anticipates being able to continue to make payments as per the Loan Agreement and no material problems exist which would require the Lenders attention at any of Mercia's Facilities.

Plant Performance Operating Report

11. Attached at Appendix 2 is an update of the operating performance of the energy from waste plant prepared by external advisors Fichtner Consulting Engineers Limited. The report confirms that for the second year of operation the plants overall availability were above annual average guarantees. One minor item remains from construction and payment is being withheld until this has been completed. During the defects liability period, 332 defects were raised and of these, 82 remain open. The final certificate will not be issued until all open defects have been closed. The report confirms that it cannot currently foresee any performance issues with the plant that are likely to impact ongoing operations.
12. The Company has subsequently confirmed that the work in respect of the air handling unit has been done, but some minor issues need to be addressed before the system is accepted as compliant with the contract. Thirty three defects remain open and it is anticipated that all items will be addressed by the end of September and closed out by the end of October.

Community impact

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

Environmental Impact

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.

This is a factual update on an existing loan arrangement and will, in isolation, have minimal environmental impacts. However consideration to minimise waste and resource use in line with the Council's Environmental Policy is considered as part of the overall waste collection and disposal service provision.

Equality duty

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.
15. 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 factual update, we do not believe that it will have an impact on our equality duty.

Resource implications

16. There are no financial implications arising from the recommendations of this report.
17. The loan arrangement is being repaid as expected, the implications of the agreed loan arrangement are reflected in the council's medium term financial strategy and treasury management strategy as agreed by Council in February 2020.

Legal implications

18. 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.
19. 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

20. The two open risks that have been substantially mitigated and are assessed as green remain on the risk register as reported last time, see appendix 3. All risks, including closed risks, are regularly reviewed.
21. Part of the senior term loan facility agreement refers to debt ratio calculations that demonstrate that the Company has the required funds to meet the loan repayments falling due.
22. A historic periodic ratio calculation is performed to assess the project's ability to service its current debt obligation over the preceding 12-month period. In addition a cash flow after debt servicing within the current base financial model is compared to the actual cash flow after debt servicing position. This has showed a positive picture where the actual cash flow in the Company has been more than the current base financial model.
23. The Councils are currently reviewing the service provision contract. The loan arrangement ends when the private finance initiative contract ends in 2023. The Councils are considering the options available at contract end which includes a contract extension. If an extension were to be agreed then a new finance model would be negotiated.
24. An updated financial model is expected to forecast immediate contract savings, discussions are being held with KPMG to support the Councils in understanding the updated model in terms of savings delivery and also any implications that this may have on the affordability of the future loan repayments.
25. To reflect this a new risk has been added to the risk register in relation to the impact on the ratio analysis testing of an updated financial model. There is currently no clear deadline for agreeing a contract extension and therefore no date to expect an updated financial model.
26. The risk register is shared with Worcestershire County Council and is therefore in a jointly agreed format.

Consultees

27. None

Appendices

- | | |
|------------|------------------------------------|
| Appendix 1 | Assurance Statement |
| Appendix 2 | Plant Performance Operating Report |
| Appendix 3 | Risk Register |

Background papers

- None identified

Senior Term Loan Facility Agreement

Assurance Statement for Lenders

1. Audit and Trading

The Company has performed well against the Modelled figures during 2019 as a whole. As reported previously the first half of the year was a good period for us. The second half has unfortunately been impacted by a longer and more costly shutdown than expected for Energy from Waste Plant. The outage incurred both greater costs and as it took longer the loss of income was higher than planned. The Company as a whole outperformed in November and we expect to have a satisfactory outturn for the year.

In looking forward the Company continues to perform well across the more than twenty locations it operates from and continues to succeed in terms of the contractual Recycling and Recovery targets it has as part of the Service agreement with the Councils. The recycling market continues to be of concern with further price falls experienced. Additional risks relating to the plans of the main political parties in respect of the Minimum Wage and Corporation Tax, among other matters, in the Party's election manifestos are now apparent.

2. Loan Repayment

The payments due to the Councils at the end of December will be in full and on time. As at the date of this statement, Mercia anticipates being able to continue to make payments as per the Loan Agreement.

3. Buildings, Plant and other Infrastructure

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

4. Compliance with Environmental Conditions and Permits

As mentioned in the last report, the Environment Agency requested that we investigate a source of noise at the EfW Plant (the Induced Draft Fan). The Company has worked closely and openly with the Environment Agency, the Council and local residents and a course of action has been agreed. Following a Survey in early December a Computer Model will be made enabling fabrication and installation of the measures required to resolve the issue in the first quarter of the new year.

5. Insurance

All appropriate Policies are in place. The Company's claims history remains satisfactory. The non – EfW renewal meeting is due to take place on 5th December. The EfW policy renewal takes place in March.

6. Key Staff

All senior staff remained in their roles during the period and continue in their employment at the date of this Statement.

J W Haywood - Mercia Waste Management 3.12.19

30 September 2019

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Evesham
WR11 3XZ

Ref: Performance of the EnviRecover EfW Plant

Dear Jim,

In response to your request for an update on the operational performance of the EnviRecover energy from waste (EfW) plant, we are pleased to provide this brief overview.

Following completion of construction by Hitachi Zosen Inova (HZI), the plant was taken over on 3rd March 2017 and is now operated by Severn Waste Services (SWS) on behalf of Mercia Waste Management (Mercia).

In accordance with the engineering, procurement and construction (EPC) Contract, following successful completion of the Reliability and Performance Tests, the Acceptance Certificate was issued on 2nd August 2017 and the Availability Test subsequently commenced at 00:00 on 3rd August 2017.

The Availability Test was performed over a 730-day period and was successfully completed at 00:00 on 3rd August 2019. The overall availability for the Plant over the 730-day test period was 93.1% in terms of thermal input and 88.5% in terms of electrical export, compared to annual average guarantees of 90.6% and 88.1% respectively.

At the end of August 2019, Severn Waste Services (SWS) advised that only one Minor Item remains. It relates to the installation of a new variable speed drive for the administration building air handling unit and the successful demonstration that the ventilation system is now compliant with the requirements of the Contract. As such the following milestones have still not been certified.

- Milestone 43d - Completion of remaining priority B Minor Items; and
- Milestone 44b – Installation of replacement air handling unit fan and completion of commissioning to the satisfaction of the Purchaser.

All outstanding Final Documentation has now been provided by HZI, and as such, Milestone 45b - Provision of outstanding as built quality documentation as detailed in Variation Order 73, has been certified for payment. Only milestone 43d and 44b now remain outstanding.

The Defects liability period ended on 3rd March 2019 (two years after Take Over). During the Defects liability period, 332 Defects were raised by SWS and of these, 82 remain open. No new Defects can now be raised, but HZI is still required to address the remaining open Defects. The Final Certificate, as defined under Clause 38.1 of the Contract, will not be issued until all open Defects have been closed.



Certificate Number 2291
ISO 9001
ISO 14001
OHSAS 18001

30/09/19 Page 2 of 2

In conclusion, the EnviRecover EfW plant has successfully achieved the guaranteed availability over its first two years of operation. HZI is continuing to close out the remaining Defects, although progress has been quite slow on some points. We cannot currently foresee any performance issues with the plant that are likely to impact ongoing operations.

Yours sincerely
FICHTNER Consulting Engineers Limited

Mark Shatwell
Project Manager under the EPC Contract

Stuart Wilson
Engineering Director

Waste Credit Committee Risk Register - Open Risks

December 2019 - Corporate Scoring Terms

Risk Reference	Description of risk	Gross Impact	Gross Likelihood	Gross Risk Score	Risk control approach	Mitigating Actions	Residual Impact	Residual Likelihood	Residual Risk Score	Assigned to (Risk Owners)
a	Default of loan repayments by borrower to lenders due to SPV (Mercia) or HZI falling into administration.	Critical	Medium	15	Risk transferred	Due to the security package negotiated by the Councils a fall away analysis indicated that Mercia, its Shareholders and HZI would need to have entered administration at the same time to put at repayment at risk during the construction phase. 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. An example is where ACS Construction and Services S.A., through its subsidiary ACS Services y Concessions S.L., executed the sale recently of its total interest in URBASER S.A. To Firion Investments S.L.U, a company controlled by a Chinese group. The Councils then obtained legal advice that reassured lenders that no action was required by any parties arising from this change in ownership, as there were no changes to the Shareholder (Urbaser Limited).	Substantial	Very Low	6	The risk owners are the Section 151 Officers of each Council supported by Ashurst as advisors in case of contract default and Deloitte to monitor Mercia's actual quarterly cash flow tests and cover ratios that have to be maintained by Mercia.
f	Mercia loan principal and / or interest repayments are below the required values as per the rates agreed in the STFLA .	Substantial	Very Low	6	Risk treated	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.	Substantial	Almost Impossible	5	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.
g	The impact on the ratio analysis testing of the availability of an updated financial model	Substantial	Medium	15	Risk treated	The Council's treasury team are seeking KPMG to assess any impact on the ability of MWM to repay the loan regarding an updated financial model. This will also assess the impact on the ratio analysis required.	Substantial	Very Low	5	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.

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				
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
	Negligible	Substantial	Critical	Extreme
Impact				



Meeting:	Audit and governance committee
Meeting date:	Wednesday 14 October 2020
Title of report:	Confidential reporting code (Whistleblowing)
Report by:	Solicitor to the council (monitoring officer)

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To review and agree changes to the council's whistleblowing policy

Recommendation(s)

That:

- (a) Following recommendations from the working group the policy as attached at appendix 1 is reviewed and agreed for adoption.

Alternative options

1. To not review the policy, this is not recommended as it is a function of the committee to maintain an overview of this policy and the working group was specifically set up to undertake this task.
2. To not make any changes, this is not recommended as the policy can be improved.

Key considerations

3. This policy plays an important part in meeting the council's commitment to openness, honesty and ethical propriety and compliments the objectives of a number of other council policies for example the anti-fraud and bribery policy and the code of conduct for qualifying employees of the council.
4. The policy is intended to encourage and enable employees to raise concerns with the council without fear of victimisation, subsequent discrimination or embarrassment. It also provides a check and balance with the involvement of another local authority. Several local authorities were asked and Buckinghamshire Council offered to support this new policy and provide a facility for anonymous complaints and to be informed of all complaints received.
5. The policy was last reviewed in 2017 and was wholly rewritten. The wholesale review was undertaken by the constitution working group with comments from the trade unions and employee improvement group.
6. A review of the use of the policy since 2017 and trends is set out below:

Municipal year	Total number of complaints	Report concerned				
		Make you feel uncomfortable in terms of known standards	In breach of the officer or councillor code of conduct	Fall below established standards of practice that the council subscribes	Are not in keeping with the council's constitution and policies	Improper
17/18	5	1	0	2	1	1
18/19	10	2	1	5	2	0
19/20	8	2	1	3	2	0
20/21	2	1	0	0	1	0

7. The policy is well understood and the process is now streamlined and recorded. There have been no complaints about how the policy operates.
8. The new policy is based upon the feedback from this committee in June 2020, the trade unions and review by the working group.
9. The new policy;
 - Uses new tone and language
 - Provides an external check and balance with support from another local authority.
 - Simplifies the process into 4 clear steps for an employee to follow.
 - Details support available.

1. Once the new policy is agreed a communication with staff will be sent out to ensure that all staff and councillors are aware of the policy and how they can raise concerns. It is important to ensure that all are aware of the new policy.

Community impact

2. 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. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law. The confidential reporting code is part of the council's governance arrangements. Periodic reviews to ensure the code remains current, fit for purpose and effective helps the council to meet the principles within its code of corporate governance

Equality duty

3. 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.
4. The review of the code will seek to ensure that, the council fully complies with the public section equality duty.

Resource implications

5. The role for the Monitoring Officer from Buckinghamshire Council, will require a service level agreement detailing the support to be provided and will be charged on an hourly rate. By law the Monitoring Officer is required to hold their own budget to discharge their functions and this cost will be charged to this existing revenue budget as and when the services are used.

Legal implications

6. None arising from the recommendations.

Risk management

7. 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

8. Internal and external audit were invited to review the policy. External audit have to remain fully impartial from such consultations under their ethical rules and were therefore unable to provide any comment. Internal audit had no comments and no additional suggested changes.
9. The trade unions were also consulted and were happy with the content.

Appendices

Appendix 1 draft whistleblowing policy

Background papers

None identified

Section 5 - Whistleblowing policy

This policy supports a culture of openness, honesty, and trust where all those involved with providing services know how to raise concerns and feel confident that legitimate concerns will be dealt with promptly and appropriately.

Whistleblowing is viewed by the council as a positive act that can make a valuable contribution to the council's efficiency and long-term success. It is not disloyal to colleagues or the council to speak up.

What is the aim of the policy and when does it apply?

STATEMENT OF INTENT

Speaking up about any concern you have at work is vitally important. In fact, it's essential because it will help us to keep improving our services for all residents and the working environment for our staff.

You may feel worried about raising a concern, and we understand this. But please don't be put off. We will listen to and investigate what you say.

This policy encourages concerns to be raised in a constructive and positive manner and provides an escalation process where concerns can be raised if they remain outstanding.

If you raise a genuine concern (i.e. held in reasonable belief) under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern; in fact any such attempt would warrant you raising a concern in itself. Any such behaviour is a breach of our PEOPLE values, and if upheld following investigation, could result in disciplinary action for the person(s) involved.

Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. We want to hear from you. Of course, we do not extend this assurance to someone who may maliciously raise a matter they know is untrue, this would be an abuse of this policy and would result in disciplinary action.

We are committed to ensuring that if you wish to raise a concern that you are not deterred and have therefore incorporated an element of independence into the policy. The monitoring officer at Buckinghamshire Council will receive copies of all complaints received at step two and is able to be contacted directly for anyone wishing to raise their concern anonymously.

Scope of this policy

This policy is intended to enable you to raise a concern when you become aware of wrongdoing in the council

Who can raise a concern under this policy?

The policy applies to all employees, agency workers, temporary workers, students and volunteers working for Herefordshire council. Staff working for Hoople, other contractors working for the council (where the contractor has agreed to adopt the council's policy), elected and co-opted members of Herefordshire Council.

For staff working with or assisting Herefordshire schools there will be a specific whistleblowing policy in your school for you because of the special relationship that exists with the schools' governing bodies. You will need to ask your head teacher for a copy of the policy.

What should be reported?

You can raise a concern about any risk, malpractice or wrongdoing you feel is harming the services we deliver. Just a few examples of this might include, but are by no means restricted to, concerns that:

- make you feel uncomfortable;
- are not in keeping with the council's constitution and policies;
- fall below established standards of practice;
- are in breach of the officer or councillor code of conduct; or
- are improper.

These might relate to:

- conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation)
- disclosures related to miscarriages of justice
- racial, sexual, disability or other discrimination
- health and safety of the public and/or other employees
- intentional damage to the environment
- unauthorised use of public funds or other assets
- possible fraud and corruption
- abuse of power for financial or other gain
- neglect or abuse of clients, or
- other unethical conduct.

Confidentiality

We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity. Therefore, we will keep your identity confidential, if that is what you want, unless required to disclose it by law (for example, by the police or if it is required to be disclosed for the purposes of subsequent disciplinary action).

If you wish to raise a wholly anonymous concern then you can do this via the monitoring officer at Buckinghamshire Council as set out in step three below.

Raising a Concern

Who should I raise my concern with?

Step one

If you have a concern, we hope you will feel able to raise it first with your line manager. This may be done orally or in writing. To assist you, the concern can be copied to the whistleblowing (*generic email address) to ensure that actions are tracked and escalated by the monitoring officer.

Step two

If you feel unable to raise the matter with your Line Manager, for whatever reason, please raise the matter with your director or monitoring officer.

They will:

- treat your concern confidentially unless otherwise agreed

-
- ensure you receive timely support to progress your concern
 - escalate to HR any indications that you are being subjected to detriment for raising your concern
 - remind the organisation of the need to give you timely feedback on how your concern is being dealt with
 - ensure you have access to personal support since raising your concern may be stressful

Step three

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the chief executive at Herefordshire Council, internal auditor or the monitoring officer at Buckinghamshire Council (see list of contact details below).

Step four

You can raise concerns formally with external bodies other than your employer which are listed here <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

How should I raise my concern?

You may raise your concerns with any of the people listed above by telephone, in person or in writing (including email). The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true
- the background and history of the concern (giving relevant dates).

If your concerns are raised verbally then a written record will be taken.

What the council will do with my concerns?

The council is committed to giving concerns raised through the policy thorough consideration whilst responding as quickly as possible. We will also be open and transparent with people raising concerns and those subject to whistleblowing, explaining when information can and cannot be shared.

Any person receiving a concern at stage 2 should immediately inform the monitoring officer. The monitoring officer will acknowledge receipt of the concern within 2 working days and inform internal audit and the monitoring officer at Buckinghamshire Council of the disclosure.

An appropriate lead will be identified by the monitoring officer to undertake initial enquires. The enquiry will be objective and evidence based, and will produce findings that focus on learning lessons to prevent problems recurring.

Where appropriate, after initial enquires have been made, the matters raised may:

- be further investigated by the someone suitably independent (usually from a different part of the organisation or external)
- be referred to the police
- be referred to the external auditor
- be referred to existing child protection/abuse procedures

Communicating with you

We will treat you with respect at all times and will thank you for raising your concerns.

Within ten working days of a concern being raised, the monitoring officer will have had the initial enquiry undertaken and will confirm in writing to you:

- indicating how the council proposes to deal with the matter i.e. telling you whether further investigations will take place and if not, why not
- supplying you with information on any support mechanisms as appropriate
- Confirming how the matter can be taken further as set out in section 6 of this policy.

While the council cannot guarantee that the outcome will be as you wish, it will handle the matter fairly and in accordance with this policy. You need to be assured that your disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation, maintaining security and confidentiality for all parties as far as possible. You will not however be provided with any report or other correspondence created investigation and dealing with your disclosure.

How will we learn from your concern?

The focus of the investigation will be on improving the service we provide for residents and on holding our staff to account for upholding professional standards and PEOPLE values. Where it identifies improvements that can be made, we will track them to ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate. Where it identifies employment issues or potential fraudulent behaviour, these matters will be dealt with under the appropriate policy.

How the Matter can be Taken Further

This policy is intended to provide you with an avenue within the council to raise concerns. The council hopes you will be reassured with any action taken. If you are not, and you feel it is right to take the matter outside the council, you should follow step four in the process. A public disclosure to anyone other than those listed in the live link above, could take you outside the protection of the Public Interest Disclosure Act and of this policy.

You should not disclose information that is confidential to the council or to anyone else, such as a client or contractor of the council, except to those included in the list of prescribed contacts.

This policy **does not** prevent you from taking your own legal advice.

This policy is not for people with concerns about their employment or own private circumstances.

Review of the policy

The council's audit and governance committee will review this policy.

Corporate recording and monitoring

Herefordshire Councils monitoring officer will maintain a corporate register containing all disclosures that are brought to their attention. All officers allocated to look into a concern must ensure the monitoring officer is provided with sufficient details for the corporate register.

The monitoring officer will review the corporate register and produce an annual report for the chief executive and internal audit. The review will include a summary of the concerns raised, to which department they relate, the post to which the concerns related (if not confidential) and any lessons learned. The report will not include any employee names. The aim of this is to ensure that:

- the council and/or the relevant department learns from mistakes and does not repeat them, and
- for consistency of approach across the departments

Support

If you are unsure whether to use this policy or want independent advice or support at any stage, you may contact the following;

"UNISON has a vital role to play in creating a culture of raising concerns with management, supporting members who make the decision to blow the whistle and to

ensure that employer's policies and practices are fair. Branch officers and stewards have a key role to play in raising concerns about wrongdoing and supporting members who speak out. Any member with a potential whistleblowing concern can telephone us on 01432 277977 or email unison@herefordshire.gov.uk for support and advice."

The independent charity **Protect** (formerly Public Concern at Work) on 020 3117 2520. Their advisers can give you free confidential advice on how to raise a concern about serious malpractice at work.

The Orchard - Employee Assistance Programme (EAP) - This resource is available free of charge, offering immediate information, answers and advice to a range of workplace and personal issues that affect daily life. Whether you need information or have questions you can contact the EAP and talk to one of our Information Specialists or Counsellors. All counsellors are professionally qualified and accredited by the British Association for Counselling and Psychotherapy, free of charge and available 24/7. To access the online portal, please visit <http://www.colleaguesupport.co.uk/> and enter the code 72160 as your username and password.

List of contacts

Chief Executive	Alistair Neill – alistair.neill@herefordshire.gov.uk
Director Economy and Place	Richard Ball – richard.ball@herefordshire.gov.uk
Director Adults and Communities	Stephen Vickers – stephen.vickers@herefordshire.gov.uk
Director for Children's wellbeing	Chris Baird – cbaird@herefordshire.gov.uk
Monitoring Officer	Claire Ward – claire.ward@herefordshire.gov.uk
Deputy Monitoring Officer	Kate Charlton – kate.charlton@herefordshire.gov.uk
Internal Audit (SWAP)	Jacqui Gooding - jacqui.gooding@swapaudit.co.uk
External Audit (Grant Thornton)	Jon Roberts - jon.roberts@uk.gt.com
Monitoring Officer, Buckinghamshire Council	Nick Graham - nick.graham@buckinghamshire.gov.uk
West Mercia Police	https://www.westmercia.police.uk/



Meeting:	Audit and governance committee
Meeting date:	Wednesday 14 October 2020
Title of report:	Work programme update
Report by:	Democratic services officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To provide an update on the Committee's work programme.

Recommendation(s)

THAT:

Subject to any updates made by the committee, the work programme for the audit and governance committee be agreed.

Alternative options

- 1 There are no alternative options as regards whether or not to have a work programme as the committee will require such a programme in order to set out its objectives for the coming year.

Reasons for recommendations

- 2 The work programme is recommended as the committee is required to define and make known its work for the coming year. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.
- 3 The committee is asked to consider any further adjustments.

Key Considerations

- 4 The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.

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.

Equality duty

- 6 This report does not impact on this area.

Financial implications

- 7 There are no financial implications.

Legal implications

- 8 The work programme reflects any statutory or constitutional requirements.

Risk management

- 9 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

- 10 The chief finance officer, monitoring officer, chairperson and vice-chairperson have contributed to the work programme.

Appendices

Appendix 1 – work programme for audit and governance committee

Background papers

- None identified.

Audit & Governance Committee Constitution		Report	May	June	July	September	October	November	January	March
3.5.9	The purpose of an audit committee is to provide independent assurance on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes									
3.5.10	Internal Audit	Internal Audit								
	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 & Internal Audit Charter Progress Report on internal audit plan (see part b for timing)	2020/21 Plan & Charter				Opinion			2021/22 Plan & Charter
a	To consider summaries of specific internal audit reports and the main issues arising and seek assurance that action has been taken where necessary	Internal Audit Annual Opinion Progress Report on internal audit plan		Progress Report	Progress Report	Progress Report	Progress Report	Progress Report	Progress Report	Progress Report
b	To consider reports dealing with the management and performance of the providers of internal audit services			Progress Report	Progress Report	Progress Report	Progress Report	Progress Report	Progress Report	Progress Report
c	To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale	Tracking of internal and external audit recommendations Progress Report on internal audit plan (see part b for timing)		Tracking Report			Tracking Report			
d	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								
e	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)								
f										
3.5.11	External Audit	External Audit								
	Review and agree the External Auditors annual plan, including the annual audit fee and annual letter and receive regular update reports on progress	Annual Audit fee letter External Audit progress update (see part b for timing) Tracking of internal and external audit recommendations (see part 3.5.10d for timing) Annual Audit Letter External Audit Annual Plan	Audit Fee						Annual Letter Annual Plan	
a	To consider specific reports from the External Auditor	External Audit progress update		Progress Report	Progress Report	Progress Report	Progress Report			Progress Report
b	To meet privately with the External Auditor once a year if required	Not required to be scheduled on Work programme								
c	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								
d	To recommend appointment of the council's local (external) auditor	Not required to be scheduled on 20/21 Work programme								
e	To 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.								
f										
3.5.12	Governance									
	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	Re-thinking Governance Update Accounting Policy Update Contract & Finance Procedure Rules		Re-thinking Governance		Re-thinking Governance		Policy Update	Procedure Rules	
a	To monitor the effective development and operation of risk management and corporate governance in the council	Work programme Corporate Risk Register	Risk Register Work programme	Work programme	Work programme Risk register	Work programme	Work programme	Work programme Risk Register	Work programme Risk Register	Work programme
b	To maintain an overview and agree changes to the council policies on whistleblowing and the 'Anti-fraud and corruption strategy'	Whistleblowing policy Anti-fraud & corruption strategy		Whistleblowing			Whistleblowing		Anti-Fraud & Corruption	
c	To oversee the production of the authority's Statement on Internal Control and to recommend its adoption	Statement of Accounts								
d	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 Annual Governance Statement Progress Report			Draft			Final		Progress Report
e	The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance	Annual Governance Statement Progress Report								Progress Report
f	To annually review the council's information governance requirements	Information Governance Review								
g	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			Draft			Final		Progress Report
h	To adopt an audit and governance code									
i	To undertake community governance reviews and to make recommendations to Council.	Last completed 2018. This is on an as required basis and therefore not scheduled.								
j										
3.5.13	Waste Contract									
	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								
a	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								
b	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								
c	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								
d										
3.5.14	Code of Conduct: To promote and maintain high standards of conduct by members and co-opted members of the Council.									
	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								
a	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	Part of Re-thinking Governance Review to be scheduled in next year's Work programme.								
b	To keep the code of conduct under review and recommend changes/replacement to Council as appropriate	Part of Re-thinking Governance Review to be scheduled in next year's Work programme.								
c	To publicise the adoption, revision or replacement of the Council's Code of Conduct	Part of Re-thinking Governance Review to be scheduled in next year's Work programme.								
d	To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment	Remuneration of independent persons Recruitment done on an ad hoc basis and not scheduled for 2020/21	Remuneration							
e	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								
f										
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 and not scheduled for 2020/21								
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 and not scheduled for 2020/21								
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						Statement & Report		



Meeting:	Audit and governance committee
Meeting date:	Wednesday 14 October 2020
Title of report:	External audit update - Redmond Review
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To share with the committee the findings of the national Redmond Review and what expected impact this is expected to have on the future work of the committee.

This update is being shared following a request from the committee.

Recommendation(s)

That:

- (a) the Committee note Grant Thornton's presentation, attached at appendix 1, on the initial Sir Tony Redmond Independent Review of Local Audit and consider the impact on the future role and reporting of the committee.

Alternative options

1. There are no alternative options, this is a factual update on a national external review into local public audit.

Key considerations

2. In June 2019 Sir Tony Redmond was asked by the then Secretary of State for Ministry of Housing, Communities and Local Government (MHCLG) (Rt Hon. James Brokenshire MP) to undertake an independent review of the effectiveness of local audit and the transparency of local authority financial reporting, The Redmond Review.
3. The Redmond Review looked at the reporting, governance, audit quality and scope with a focus on users and sustainability. Its findings were published early September 2020. Appendix 1 is a presentation on the findings that Grant Thornton will present to the committee at its meeting on 14 October.
4. The Redmond Review recommendations include:-
 - A new regulator - the Office of Local Audit and Regulation
 - Scope to increase fees - to ensure that adequate resources are deployed to meet the full extent of local audit requirements
 - Move back to a September deadline - from 31 July
 - Accounts simplification
 - recognition of the role of authorities in improving governance and reporting
 - development of audited and reconciled accounts summaries

Community impact

5. One of the principles in the council's code of corporate governance is to implement good practices in transparency, reporting, and audit to deliver effective accountability. To support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner. External audit contributes to effective accountability.

Environmental Impact

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.

Whilst this is a factual national review update 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

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.
- 6. 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 factual update on a national review, we do not believe that it will have an impact on our equality duty.

Resource implications

- 7. None immediately however it is noted there are some areas of concern in the Redmond Review that the Committee will want to give consideration to, and actions will still need primary or secondary legislative changes. These may therefore have a resource implication and these will be considered at each decision point.

Legal implications

- 8. This update has no direct legal implications.

Risk management

- 9. No immediate risks arise from this factual update. The recommendations of the Review may lead to changes in local public audit and the risk of adapting to these changes will be managed by early dialogue and collaborative planning.

Consultees

- 10. None

Appendices

Appendix 1 Presentation on the Redmond Review

Background papers

None identified

Re-energising local public audit

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Jon Roberts
Head of Public Policy Audit



My career journey

A local auditor and proud of it

- Joined District Audit in July 1987
- RSM Robson Rhodes Bristol from 2002
- 72 • Made partner and set up Grant Thornton's Birmingham local audit team from 2007
- Back to Bristol
- Public Policy of Audit from 2018
- Still have a portfolio of audits



So why be an auditor?



- Making a difference to tax-payers' money
- Variety of public bodies – LG, health, blue light, etc
- In different locations
- Test of professional mettle
- Broad skills-set: accounts, VFM, challenge
- In the public interest
- Just being there makes a difference



Audit under siege – a ‘Crisis’ in confidence in audit



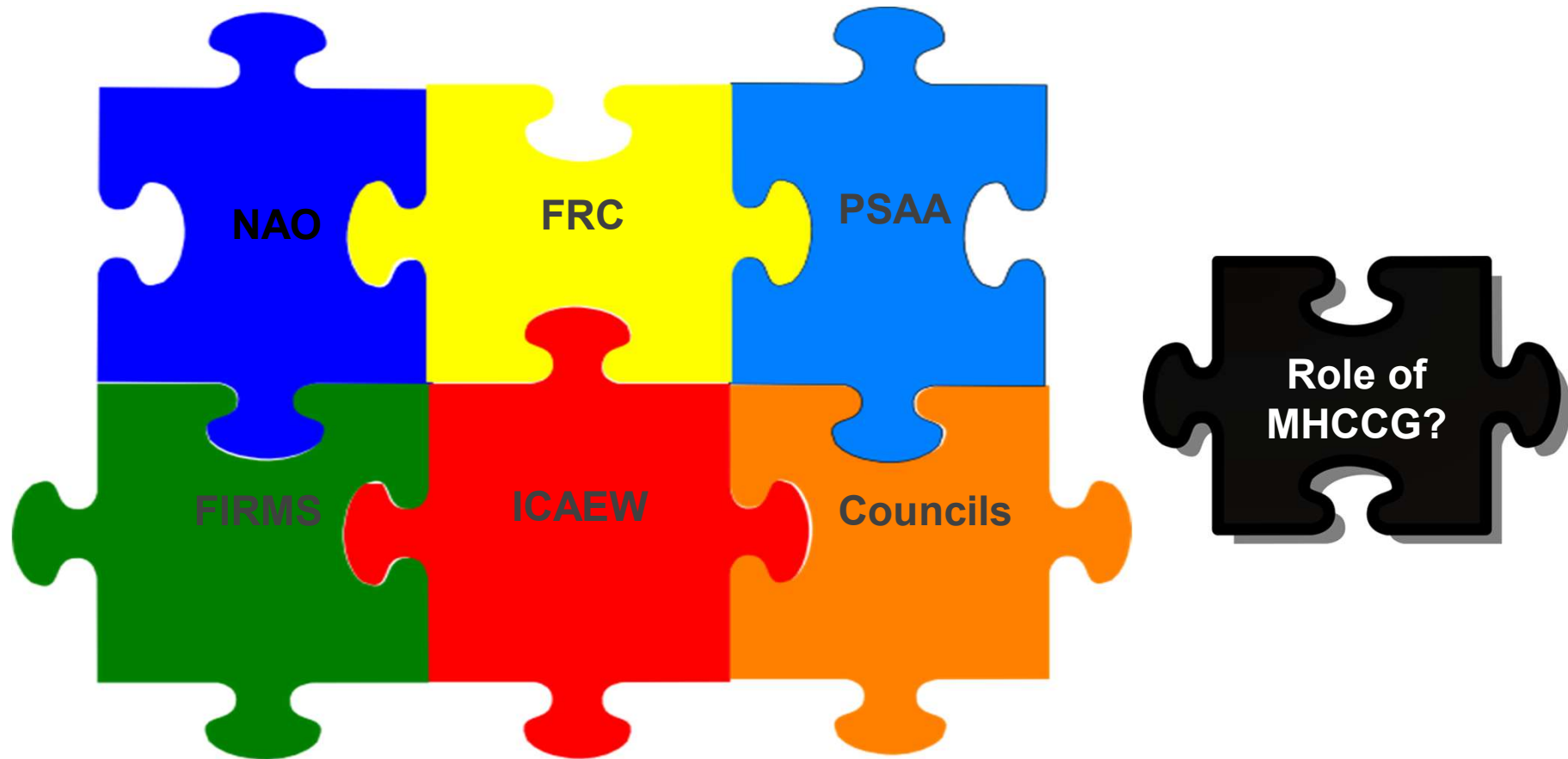
In the public sector ...

What did the Audit Commission ever do for us?

- Delivered audits
- Set the Code of Audit Practice
- Set fees
- Mandated work
- Regulated quality



Responsibilities under the Local Audit and Accountability Act



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Early close

Accounts and Audit Regulations

Draft Accounts	30 June	→	31 May
Published Accounts	30 September	→	31 July
Audited Accounts <u>target</u>	30 September	→	31 July

Full effect from Summer 2018

Local government has changed

Longer more complex accounts, lower fees

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The changing face of local government financial reporting – Birmingham City Council

	2008/09	2018/19
Auditor	Audit Commission	Grant Thornton
Length of financial statements (excluding opinion)	91 pages	219 pages
Length of audit opinion	3 pages	12 pages
Date opinion signed	Feb 2010 (11 months after year end)	September 2019 (6 months after year end)
Scale fee for audit opinion	£700,000	£241,000
Audit fee – grant claims	£300,000	£100,000

Regulator demanding more

- Regulators' role over firms
- The FRC's expectations for auditors
 - Increased scepticism and challenge
 - Increased focus on PPE, Pensions and other areas to the standards of the FTSE350
 - More robust reporting
 - More consistent audit quality

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2019 Summer of discontent

- Over 40% audits not signed at 31 July
- More work = fee variations
- Accounts preparation and quality slippage
- Retention of audit teams under strain – highly employable people

**The position was not sustainable ...
and then came Covid19**

A market-only regime

PSAA Review of sustainability in the Audit Market (March 2020)

- A number of firms have left the market
- For those that remain: long hours, more regulation, increased pressure
- External audit an increasingly unattractive profession
- How do we attract and retain the CIPFA accountants and auditors of the future?
- Where is the next generation coming from?



Redmond to the rescue

“A robust local audit system is absolutely pivotal to work on oversight, not just because it reinforces confidence in financial reporting but also service delivery and ultimately, our faith in local democracy”.

James Brokenshire

Review to cover: reporting, governance, audit quality and scope. Focus on users and sustainability.

Covering letter to the Secretary of State

- The local audit market is very fragile. The current fee structure does not enable auditors to fulfil the role in an entirely satisfactory way.
- With 40% of audits failing to meet the required deadline for report in 2018/19, this signals a serious weakness in the ability of auditors to comply with their contractual obligations.
- In addition, the ambition of attracting new audit firms to the local authority market has not been realised.

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Detailed findings

Systems leadership is lacking

- The structure is fragmented and piecemeal. Public sector specialist expertise is now dispersed around different bodies. No one body is looking for systemic problems, and there is no apparent co-ordination between parties to determine and act on emerging risks (Sir John Kingman)
- There is a need for a new organisation with the clarity of mission and purpose to act as the system leader for the local audit framework; and for a standardised statement of service information and costs, compared to the annual budget, that is aimed at taxpayers and service users.

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Detailed findings

Procurement has resulted in fees which are too low

- PSAA adopted the same procurement framework in 2017 as the Audit Commission had done previously in 2014. No assessment of the amount it would cost to audit each local authority based on their level of audit risk has been made in the past ten years.
- 8 - Audit fees in the local authority sector have dropped significantly at the same time that audit fees in other sectors including other parts of the public sector have significantly risen
- Firms stated that the lack of profitability changes the way that local audit work is perceived within the firm. Specialising in this area is seen by many auditors as having a detrimental impact on career prospects.

Detailed findings

The audit timescale is unrealistic and unhelpful

- The compression of the audit timetable was mentioned as an issue by every audit firm. Firms raised concerns about the resulting peaks in workload, pressures on staff during the summer months, and knock-on effects when target dates are not met. These pressures contribute to making work unpopular with local audit staff

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Detailed findings

Financial reporting is overly complex / not always relevant

- Local authority accounts are arguably more complex and more challenging for a service user to understand than accounts produced by other parts of the public sector.
- Scope identified to improve transparency and relevance of reporting e.g:
 - asset valuations: accounting is complex and the perception of many stakeholders is that it does not add value
 - going concern disclosures are perceived to be less relevant in a local authority context than financial resilience

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Detailed findings

Governance and transparency of reporting needs improvement

- The ability of Audit Committees, which mostly lack independent, technically qualified members, to consider, effectively, audit reports has been challenged in responses to the call for views.
- ∞ - Transparency and accountability of audit reports, from a public perspective is lacking.
- There needs to be a greater role for full council and a stronger interface between statutory officers and audit.

Detailed findings

There is too much focus on Property and Pension Valuations

- Authorities concerned that auditors are spending significant time on fixed asset and pension valuations, rather than on major areas of expenditure and usable reserves, Auditors coming through the system are not developing a wider understanding of LG context
- Firms would prefer to do less work on asset and pension valuations but explained that these areas are given more attention to secure a positive assessment from the FRC
- The FRC believes that if a focus on asset and pension valuations is inappropriate, this is the responsibility of CIPFA/ LASAAC

Sir Tony's Recommendations

A call for action

- **A new regulator** - the Office of Local Audit and Regulation to replace the FRC and PSAA
- **Scope to increase fees** - The current fee structure for local audit be revised (i.e. increased) to ensure that adequate resources are deployed to meet the full extent of local audit requirements
- **Move back to a September deadline** - The deadline for publishing audited local authority accounts be revisited with a view to extending it to 30 September from 31 July each year

Sir Tony's Recommendations

A call for action

- **Accounts simplification** - CIPFA/LASAAC be required to review the statutory accounts to determine whether there is scope to simplify the presentation of local authority accounts
- 91 - recognition of the **role of authorities in improving governance and reporting** and
- development of **audited and reconciled accounts summaries**.

What do I like?

Recognition that everyone plays their part:

- councils
- audit committees
- regulators/stakeholders
- CIPFA

Creates the conditions and expectation for firms to invest:

- timetable
- work content and status
- fees



But what else?

- Do it once – do it properly
- Involve the NHS
- Mandatory independent appointment for all
- Accounts simplification – WGA and the PPE 'food chain'
- Increase market participation by former and new suppliers
- Focus on the urgency – in anticipation of legislation



