

Agenda

Audit and governance committee

Date: **Tuesday 10 May 2022**

Time: **11.00 am**

Place: **The Conference Room, Herefordshire Council Offices,
Plough Lane, Hereford, HR4 0LE**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

Ben Baugh, Democratic services officer

Tel: 01432 261882

Email: ben.baugh2@herefordshire.gov.uk

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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 Jenny Bartlett
Councillor Dave Boulter
Councillor Peter Jinman
Councillor Bob Matthews
Councillor Yolande Watson

Agenda

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details any details of members nominated to attend the meeting in place of a member of the committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>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.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 12 April 2022. The action log for the committee is also attached.</p> <p>HOW TO SUBMIT QUESTIONS</p> <p>The deadline for receipt of questions is 5.00 pm on Wednesday 4 May 2022. Questions must be submitted to councillorservices@herefordshire.gov.uk. Questions sent to any other address may not be accepted.</p> <p>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 www.herefordshire.gov.uk/getinvolved</p>	11 - 20
5.	<p>QUESTIONS FROM MEMBERS OF THE PUBLIC</p> <p>To receive any questions from members of the public.</p>	
6.	<p>QUESTIONS FROM COUNCILLORS</p> <p>To receive any questions from councillors.</p>	
7.	<p>RE-THINKING GOVERNANCE</p> <p>To consider the suggested amendments to the council's constitution proposed by the re-thinking governance member and officer working group for recommendation to Council.</p>	21 - 40
8.	<p>CODE OF CONDUCT</p> <p>To recommend to Council a revised code of conduct.</p>	41 - 124
9.	<p>AUDITOR'S ANNUAL REPORT 2020/21</p> <p>To present to the audit and governance committee the auditor's Annual Report 2020-21 for information and discussion.</p>	125 - 174

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| 10. PROGRESS REPORT ON INTERNAL AUDIT ACTIVITY | 175 - 236 |
| To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed. To enable the committee to monitor performance of the internal audit team against the approved plan. To assure the committee that action is being taken on risk related issues identified by internal audit. | |
| 11. WORK PROGRAMME UPDATE | 237 - 242 |
| To consider the work programme for the committee. | |
| 12. DATES OF FUTURE MEETINGS | |
| The following dates for audit and governance committee meetings for 2022/23 are suggested for consideration: | |
| Monday 27 June 2022, 2.00 pm | |
| Monday 25 July 2022, 11.00 am | |
| Monday 19 September 2022, 2.00 pm | |
| Monday 31 October 2022, 2.00 pm | |
| Monday 21 November 2022, 2.00 pm | |
| Monday 30 January 2023, 11.00 am | |
| Monday 13 March 2023, 2.00 pm | |

The public's rights to information and attendance at meetings

In view of the continued prevalence of Covid-19, we have introduced changes to our usual procedures for accessing public meetings. These will help to keep our councillors, staff and members of the public safe.

Please take time to read the latest guidance on the council website by following the link at www.herefordshire.gov.uk/meetings and support us in promoting a safe environment for everyone. If you have any queries please contact the governance support team on 01432 261699 or at governancesupportteam@herefordshire.gov.uk

We will review and update this guidance in line with Government advice and restrictions.

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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.
- Inspect agenda and public reports at least five clear days before the date of the meeting. Agenda and reports (relating to items to be considered in public) are available at www.herefordshire.gov.uk/meetings
- 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. Information about councillors is available at www.herefordshire.gov.uk/councillors
- 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. The council's constitution is available at www.herefordshire.gov.uk/constitution
- 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 documents.

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The location of the office and details of city bus services can be viewed at:
www.herefordshire.gov.uk/downloads/file/1597/herford-city-bus-map-local-services-

**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 and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

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 (Chairperson)	Conservatives
Councillor Christy Bolderson (Vice-Chairperson)	Conservatives
Councillor Jenny Bartlett	The Green Party
Councillor Dave Boulter	Independents for Herefordshire
Councillor Peter Jinman	Independents for Herefordshire
Councillor Bob Matthews	True Independents
Councillor Yolande Watson	Independents for Herefordshire

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;
- (e) reviewing the constitution and recommending any necessary amendments to Council as appropriate;
- (f) reviewing the corporate risk register.

Minutes of the meeting of the Audit and governance committee held in The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Tuesday 12 April 2022 at 2.00 pm

Committee members present in person and voting: Councillors: Jenny Bartlett, Christy Bolderson (Vice-chairperson), Dave Boulter, Peter Jinman, Bob Matthews and Nigel Shaw (Chairperson)

Committee members participating via remote attendance: Councillor Yolande Watson

Note: Committee members participating via remote attendance, e.g. through video conferencing facilities, may not vote on any decisions taken.

Others in attendance: B Baugh (Democratic services officer), G Beal, K Charlton (Interim head of legal services), J Gooding (Assistant director, South West Audit Partnership), P Harris (Head of corporate performance), David Hitchiner (Leader of the Council), A Lovegrove (Director of resources and assurance), J Moore (Interim head of corporate finance), A Probert (Principal auditor, South West Audit Partnership), J Roberts (Key audit partner, Grant Thornton), G Turner-Radcliffe (Audit manager, Grant Thornton) and P Walker (Chief Executive)

75. APOLOGIES FOR ABSENCE

Councillor Yolande Watson was unable to attend the meeting in person but participated via remote attendance.

76. NAMED SUBSTITUTES

None.

77. DECLARATIONS OF INTEREST

No declarations of interest were made.

78. MINUTES

The minutes of the last meeting were received. The action log for the committee was reviewed during the later agenda item 'Work programme update'.

RESOLVED:

That the minutes of the meeting held on 25 January 2022 be confirmed as a correct record and be signed by the chairperson.

79. QUESTIONS FROM MEMBERS OF THE PUBLIC

No questions had been received from members of the public.

80. QUESTIONS FROM COUNCILLORS

No questions had been received from councillors.

81. AUDITOR'S ANNUAL REPORT 2020/21

The chairperson noted that the report had not been published at least five clear working days before the meeting. The chairperson moved a proposed variation at the meeting to defer the item to the next meeting of the committee to enable full debate and to facilitate the receipt of any related questions from members of the public or from councillors. This was agreed by the committee. There was a brief discussion about the need to provide papers in a timely manner for all committee meetings.

[Note: To assist with the efficient transaction of business, the agenda item 'Corporate risk register' was considered before the agenda items 'Internal audit 1st quarter plan 2022-23 and internal audit charter' and 'Annual governance statement – action plan update' but the original agenda order has been maintained in the minutes for ease of reference]

82. INTERNAL AUDIT 1ST QUARTER PLAN 2022-23 AND INTERNAL AUDIT CHARTER

The committee considered the proposed first quarter internal audit plan 2022-23 and the internal audit charter.

The assistant director of South West Audit Partnership (SWAP) introduced the report and advised that the charter had been updated to reflect the change from an annual to a quarterly planning process. The principal auditor explained that the first quarter plan comprised audits that were deferred from the previous year, audits arising from discussions with senior management, and a continuation of grant certification work. In particular, attention was drawn to the 'data quality / data management' audit area in response to recent thematic findings; it was clarified that this would be undertaken corporately. It was reported that, since publication of the proposed plan, there had been two additional requests for special reviews from the director of resources and assurance which would replace two of the identified audits, with further details to be provided in the next progress update.

In response to questions, the committee was advised about:

- i. The mix of internal audit resources available and the specialist resources that could be called upon.
- ii. The implications of the additional work during 2021/22; audits were in progress and many were near completion in terms of the fieldwork.
- iii. The performance target of greater than 90% for the delivery of the annual internal audit plan; work was considered completed once reports were in draft.
- iv. The 'Leavers Process' audit area, with the focus being on the controls around that process, including the completion of exit interviews; details would be reported to the committee if there were priority 2 findings. It was suggested that any wider concerns about the quantum of leavers could be discussed with HR services.
- v. The prioritisation of audits not started; this was informed by resources, the availability of officers for the audits, and any identified priority pieces of work.

The vice-chairperson, noting that eight out of twelve proposed audits related to grants in the first quarter, said that the presentation of the quarterly plan made it difficult to gain assurance that there would be sufficient coverage of other directorates and service areas within the council by the end of the year. It was also considered that the inclusion of a high level scope for each audit would be helpful to the committee. The assistant director of SWAP said that quarterly planning intended to capture emerging risk and the activity to be undertaken in a particular quarter. It was suggested that a forward pipeline of potential audits could be included in future reports.

In response to further questions:

- vi. The assistant director of SWAP emphasised that this report related to the first quarter plan and the internal audit charter, and progress reports on internal audit activity would be presented during the year.
- vii. The assistant director of SWAP commented that the intention was to complete as many audits as possible within the quarter but there would be situations when this did not happen, particularly where additional pieces of work were requested or there were good reasons to move activity to a later date.
- viii. The director of resources and assurance explained there was limited ability to negotiate the timeframes for work relating to grants due to the need to comply with grant conditions.

Resolved: That

- a) the proposed 1st quarter internal audit plan 2022-23 has been reviewed;**
- b) the internal audit charter, appendix 2 to the report, be approved; and**
- c) a forward pipeline of future audits, as anticipated by the internal audit team for the next twelve to eighteen months, be provided in each quarterly plan report.**

Action(s):

Action 145: As per recommendation c) above.

83. ANNUAL GOVERNANCE STATEMENT - ACTION PLAN UPDATE

The committee received a report which reviewed progress with the action plan as at 31 March 2022.

The director of resources and assurance suggested that, in view of the deferral of the 'Auditor's annual report 2020/21', the next iteration of the draft annual governance statement could be presented to the June 2022 meeting.

In response to questions from the vice-chairperson on the current action plan:

1. The interim head of legal services confirmed that the action 'Implement Rethinking Governance recommended changes to the constitution and oversee operational procedures' should be marked as 'part complete' due to ongoing work.
2. The director of resources and assurance would check with officers that the action 'New CRM system for complaints and review the Unreasonable Behaviour and Complaints policies' had been completed.

3. The interim head of legal services confirmed that there had not been any progress by the government to date to amend the legislation to permit hybrid meetings, hence the action 'Promotion of becoming a council member reflective of the flexibility with increased virtual meetings' was 'not progressing'.
4. The interim head of legal services confirmed that the action 'Capture number of meeting that were excluded from public meetings' should be marked as 'not complete'.

The chairperson requested that officers give consideration as to how actions outstanding from the previous year(s) were identified in subsequent iterations of the annual governance statement action plan.

Resolved: That subject to the status amendments identified at the meeting, the updated actions be noted.

84. CORPORATE RISK REGISTER

The committee considered the status of the council's corporate risk register.

The head of corporate performance presented the report, highlighting the following: the three new corporate risks, one risk that had been escalated to the corporate risk register, and the three risks that had been de-escalated; the changes to the corporate risk register since the last report were shown in red text in Appendix A; the directorate risk registers were provided in Appendices B to E, with a summary of changes shown in paragraph 8 of the main report; the risk maturity assessment provided in Appendix F provided a good foundation for progression, with the intention to undertake a risk management audit, to provide additional training throughout the council to embed risk management, and to build the developments required into the risk management plan; and the identification of potential software solutions to improve efficiency and to free officer capacity to work to embed risk management within the directorates.

The main points made during the discussion included:

- i. The risk maturity assessment was the first one undertaken with South West Audit Partnership internal audit services (SWAP), so comparison with other local authorities was not yet possible.
- ii. With attention drawn to certain references in the economy and environment risk register, it was explained that the risk registers related to the situation as at the end of February 2022 and some matters had been addressed in the intervening period.
- iii. In response to comments about potential risks associated with inflation and increasing costs of living, the head of corporate performance commented that the risk management framework was becoming more dynamic and reported on discussions with the leadership team on strategic and longer term risks.
- iv. It was suggested that the risk registers should make reference to strategic partners where the council relied upon those partners to deliver activities for the council.
- v. The director of finance resources and assurance acknowledged the need to reduce the lead-in time between the preparation and presentation of the papers but was not aware of any other significant risks that should have been identified as at the end of February 2022, albeit various reassessments had been undertaken subsequently during March and April.

- vi. The chief executive made a number of observations, including: the opportunity to present the risk registers was welcomed; the value of regular dialogue between the head of corporate performance and the leadership team regarding strategic risks for specific directorates and for the council as a whole; the need to reflect matters included in the annual governance statement and the external auditor's annual report; the importance of ensuring that partnerships, such as the Herefordshire and Worcestershire Integrated Care System, worked well; and other challenges included workforce recruitment and retention, the delivery of major projects, the increasing demand for services, the ability to continue to deliver savings, and minimising exposure to cyber-attacks. Reflecting on experiences in other local authorities, the chief executive emphasised the importance of a broad and deep approach, raising the profile of risk management, and making better informed decisions.
- vii. With reference made to the deferred item, 'Auditor's annual report 2020/21', a committee member questioned the timing of the establishment of the Major Contracts Improvement Board and its effectiveness. The chief executive briefly commented on the improvements that had been put in place since 2020/21.
- viii. With comments made about the implications of inflationary pressures, a committee member considered that further assurance was needed on the management of risks and suggested that the committee could examine one or two risks in greater detail.

The head of corporate performance confirmed that a similar action was included in the committee's action log (action 99 refers), commented on the need for input from the relevant service areas, and outlined the potential benefits of a software solution for risk management in terms of data visualisation. The chief executive advised that strategic risks could be an appropriate starting point.

- ix. A committee member suggested broadening use of specific, measurable, attainable, realistic, timescale (SMART) goals to include ecological / environmental impacts, and responding / rewarding (SMARTER) goals.
- x. The vice-chairperson welcomed the development of a strategic risk register, potentially enabling the directorate risk registers to sit with the leadership team and with the cabinet members, and commented on the need to avoid silos and for the committee to be sighted on cross-cutting risks.

The head of corporate performance said that the first iteration of a strategic risk register might be available for the September 2022 meeting and the new software system should be in place for business planning in 2023/24. The head of corporate performance added that he was due to leave the authority shortly.

- xi. In response to questions: the chief executive advised that directorate risks were discussed with cabinet members in their briefings; and the director of resources and assurance advised that the Major Contracts Improvement Board had been established by Cabinet in July 2021 (minute 32 of 2021/22 refers) and Councillors Davies, Harvey and Harrington were the cabinet members on the board currently.
- xii. The chairperson said it should be made clear that the new risk in relation to receiving an adverse Ofsted inspection (CRR.66) related to the children and young people directorate and not to an individual school.

It was agreed that a workshop would be arranged in October or November 2022 to consider the first iteration of the strategic risk register and to examine one or two strategic risks in greater detail.

On behalf of the committee, the chairperson thanked Paul Harris for his work on corporate performance and for the progress that had been made with the risk management approach.

At the conclusion of the item and in response to a comment from a committee member about the need for visibility of, and to learn lessons from, issues that had given rise to problems, particularly in relation to major projects:

- the chairperson outlined some of the occasions where the committee had put forward requests to the Section 151 officer for internal audit into certain activities;
- the director of resources and assurance noted the opportunity for the committee to input into the internal audit plan and invited members to contact him directly between meetings;
- following a comment by the chairperson about the potential for internal audit to look back over previous audits to identify any significant findings that may be worth revisiting, the assistant director for SWAP said that the audit plans for any particular pieces of work could be shared with committee members; and
- the chief executive suggested that the director of resources and assurance liaise with SWAP to explore how additional assurance could be provided to the committee that recommendations for standout pieces of work in recent years had been actioned and addressed; and
- the vice-chairperson noted that the committee received a regular report on progress against internal audit recommendations.

Resolved: That status of the council's corporate risk register be noted.

Action(s):

Action 146: Where corporate or departmental risks have an integral component supplied by partnerships, consideration be given to identifying those partnerships in the relevant risk entries.

Action 147: A workshop be arranged in October or November 2022 to consider the first iteration of the strategic risk register and to examine one or two strategic risks in greater detail.

[Note: There was a short break before the next item]

85. WORK PROGRAMME UPDATE

Further to minute 78 above, the action log for the committee was reviewed in detail and adjustments were made. The principal points included:

1. Where an action would be delivered through a future report, the action should not be 'reported complete' until that report had been presented to the committee.
2. Actual completion dates be included in the 'report complete' column.
3. Officers needed to avoid using the use of the term 'audit' when referring to separate investigatory or review work not being delivered by internal or external audit.

The committee's work programme was reviewed and the following amendments were made:

- The 'Auditor's annual report 2020/21' item would be considered at the May 2022 meeting.
- The 'Draft annual governance statement' item would be considered at the June 2022 meeting.
- The next 'Corporate risk register' item would be considered at the September 2022 meeting.

RESOLVED: That, subject to the amendments noted, the updated work programme be agreed.

86. DATE OF NEXT MEETING

It was agreed that the date of the next meeting be moved from Tuesday 3 May 2022 to Tuesday 10 May 2022 at 11.00 am.

The meeting ended at 4.55 pm

Chairperson

COMPLETED ACTIONS WILL BE MOVED TO 'REPORTED COMPLETE' ONCE THEY HAVE BEEN NOTIFIED AT AUDIT AND GOVERNANCE COMMITTEE MEETING					RED TEXT INDICATES UPDATES MADE SINCE THE LAST MEETING BLUE TEXT INDICATES NEW ACTIONS ADDED AT THE LAST MEETING			
Action Number	Meeting Date	Agenda item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
91	16 March 2021	Corporate risk register	Consider how corporate centre will look at the aggregation of similar risks in or across directorates.	Head of Corporate Performance	Corporate Services	A process to define the approach to aggregation of risks, both horizontal and vertical, needs further definition and testing. This was planned as part of the annual refresh of the Risk Management Plan, which has been delayed due to staffing issues and the desire to incorporate any findings from the Risk Management Maturity Assessment. This will now need to be re-scheduled for the coming months.	01/11/2021 31 May 2022	
94	04 May 2021	Update on internal audit recommendations	The head of corporate performance and interim deputy monitoring officer agreed to look at the processes for ensuring internal audit actions are brought to the attention of new post holders.	Head of Corporate Performance and interim DMO	Corporate Services	An updated process is currently being developed which will ensure regular review of internal audit actions, as part of directorate DLTs. This will escalate the importance and delivery of audit recommendations due to regular review by SMTs, and ensure staff recognise where they transfer between officers. Completion of this process has been delayed due to staffing issues. As part of this years' service business plan guidance, audit recommendations will be included within service business plans and progress updated regularly, with reports going to relevant management teams quarterly, as well as to cabinet members as part of their portfolio briefings.	01/09/21 30 April 2022 [Update requested from action owner]	
95	04 May 2021	Update on internal audit recommendations	The committee suggested that a discussion with internal audit take place at the next meeting with regard to sampling of priority 3 actions are followed up by internal audit in line with the same way as priority 1 or 2 recommendations.	SWAP internal audit services and Head of Corporate Performance	Corporate Services	SWAP advise 'Internal Audit follow up the significant findings priority 1 and 2. Priority 3 are through self-assessment from officers. The Council provides a report every 6 months on progress against all actions which includes priority 3 actions'. At the meeting on 12 April 2022, the committee requested that the Head of Corporate Performance / Corporate Performance Team review this action and report back in the November 2022 update on internal audit recommendations. Head of Corporate Performance / Corporate Performance Team to report to the committee in November 2022.	30 September 2021 November 2022	
97	04 May 2021	Corporate risk register	The deputy S151 officer also explained that performance and budget were reported to Cabinet on a quarterly basis but that consideration would be given to the role of the audit and governance committee.	Section 151 Officer	Corporate Services	To be considered as part of rethinking governance work stream.	3 May 2022 June 2022	
99	04 May 2021	Corporate risk register	The committee agreed that there would be need to be further consideration of identifying 1 or more risks in the directorate risk registers and undertake a deep dive to provide assurance that the risk management framework was being applied appropriately.	Head of Corporate Performance	Corporate Services	Discussed at the Risk Management Plan review session with committee on 25 June 2021. To be confirmed as part of Risk Management plan review.	25/06/2021 30 April 2022 [Update requested from action owner]	
101	28 June 2021	Progress report on internal audit activity	That training be arranged for councillors in relation to Section 106, including the facility to access publicly available information and the processes involved.	Lead Development Manager	Environment and Economy	A mandatory training session for Members on the subject of Planning was held on Friday 1st April 2022. 25 members were in attendance. A second mandatory training session will be held. Once this training session has been completed, a bespoke member session on Section 106 will be held.	31/12/2021 June 2022	
102	28 June 2021	Progress report on internal audit activity	Information on the position with Section 106 monies held, including timelines and quantification of the value of unspent money which exceeds the repayment dates be circulated to committee members.	Lead Development Manager	Environment and Economy	The review of the spreadsheet is ongoing and will be shared with committee members once completed.	30/09/2021 30 April 2022 [Update requested from action owner]	
103	28 June 2021	Progress report on internal audit activity	Information on the treatment of Section 106 monies for transport / highways be circulated to committee members.	Lead Development Manager	Environment and Economy	Action 103 – A Specialist Programme Officer has been appointed to the Project Management Office to progress delivery of the section 106 highway monies. At the meeting on 12 April 2022, the committee requested this action be reviewed, as the progress update has not achieved the action (i.e. circulation of information to committee members).	31/12/2021 [Update requested from action owner]	
106	28 June 2021	Progress report on internal audit activity	That follow-up audits completion be captured in action tracking by the head of corporate performance.	Head of Corporate Performance	Corporate Services	As per line 94, a refreshed process for consideration of Internal Audit recommendations is being pulled together. This has been delayed due to staffing capacity and availability. The intention is that the service business plans will 'feed' the master audit recommendation log, which will be shared with SWAP prior to any audit follow-ups.	24/11/2021 30 April 2022 [Update requested from action owner]	
109	30 July 2021	2019/20 external audit findings report	Training be arranged for committee members on the changes to regulations, particularly in relation to the value for money audit	Democratic Services Manager / Section 151 Officer	Corporate Services	It is intended that a training session for committee members be held in June 2022.	24/11/2021 1 July 2022	

Action Number	Meeting Date	Agenda item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
110	30 July 2021	2019/20 external audit findings report	A briefing note on the management of council estate be provided to committee members	Interim Head of Property Services	Corporate Services	At the meeting on 12 April 2022, the committee noted the linkage to the Annual Governance Statement action plan (i.e. 'Produce the estates strategy for the use of council buildings'). A report is being prepared for Cabinet on the Strategic Asset Management Plan.	30 April 2022 [Date to be confirmed]	
115	27 September 2021	Corporate risk register	The Head of Corporate Performance to consider the increase of housing developments in rural areas and the impact these may have on the risk register	Head of Corporate Performance	Corporate Services	Feedback on potential impact on rural housing provided to the service for their consideration. This will also feed in to the Strategic Risk sessions due for Management Board.	24/11/2021 [Update requested from action owner]	Yes
122	27 October 2021	Progress report on internal audit activity	The new Transformation Director be invited to meet with the Audit and Governance Committee to discuss where and how efficiencies following internal audit processes are being applied to Council working.	Democratic Services Manager	Corporate Services	Potential for attendance at a future meeting when internal audit recommendations are considered.	[Date to be confirmed]	
125	27 October 2021	Progress report on internal audit activity	The S151 Officer to explore and report back to the Committee on who in the Council undertakes the Carbon Audit.	Section 151 Officer	Corporate Services	At the meeting on 12 April 2022, it was noted that SWAP did not carry out this audit.	28/02/2022 [Update requested from action owner]	
126	27 October 2021	Audit and governance - committee effectiveness and performance, skills matrix	A date to be set for a workshop after the full Council meeting seeking agreement for the new constitutional changes.	Democratic Services Manager	Corporate Services	At the meeting on 12 April 2022, it was noted that it would be appropriate to action this following Annual Council on 20 May 2022.	May 2022 June 2022	
129	24 November 2021	Update on internal audit recommendations	That information on relevant internal audit recommendations be circulated regularly to scrutiny committee members.	Head of Corporate Performance	Corporate Services	In progress to be aligned to proposed new arrangements for scrutiny committees	31 March 2022 [Update requested from action owner]	
130	24 November 2021	Update on internal audit recommendations	Consideration be given to collating internal audit recommendations on specific topics by subject heading.	Head of Corporate Performance	Corporate Services	To consider in wider arrangements for presenting SWAP actions. This approach will be adopted in the May June report to committee.	May 2022 June 2022	
138	25 January 2022	Progress report on internal audit activity	An update be provided on the 'longstanding issues with the reconciliation of the holding accounts.', particularly in the context of previous internal update progress reports.	Section 151 Officer SWAP internal audit services	Corporate Services SWAP Internal Audit Services	The Follow Up is planned for quarter 1 and the committee will receive an update at the June 2022 meeting.	June 2022	
140	25 January 2022	Annual governance statement 2020-21 actions	With reference to Action 13, an update be provided on how the Covid Recovery Plan will link to wider resilience plans, particularly in terms of adult social care.	Director of Public Health	Corporate Services	A Covid recovery plan is still In development and will likely form part of the new and emerging economic strategy and health and wellbeing strategy.	31 May 2022 29 July 2022	
142	25 January 2022	Annual report on code of conduct	That dispensations granted to Herefordshire Council councillors be summarised in a single location on the council's website.	Director of Governance and Legal Services	Corporate Services	A link to the dispensations is available through the 'Declarations of interest at meetings' section of the council's website: https://councillors.herefordshire.gov.uk/mgListDeclarationsOfInterest.aspx?bcr=1 section For ease of reference, please see this direct link: https://councillors.herefordshire.gov.uk/eccatdisplayclassic.aspx?sch=doc&cat=13579&path=13579	31 March 2022	Yes 11-Feb-22
143	25 January 2022	Annual report on code of conduct	The number of complaints referred to the police, even if nil, be included in the complaints received table in future reports.	Director of Governance and Legal Services	Corporate Services	Information will be included in the next annual report which will be due in September 2022.	September 2022	
145	12 April 2022	Internal audit 1st quarter plan 2022-23 and internal audit charter	A forward pipeline of future audits, as anticipated by the internal audit team for the next twelve to eighteen months, be provided in each quarterly plan report.	SWAP internal audit services	SWAP internal audit services	The pipeline of audits will be provided with the first Internal Audit Progress update for 2022-23 – this will be in June 2022.	June 2022	
146	12 April 2022	Corporate risk register	Where corporate or departmental risks have an integral component supplied by partnerships, consideration be given to identifying those partnerships in the relevant risk entries.	Head of Corporate Performance	Corporate Services	[Update requested from action owner]	[Update requested from action owner]	
147	12 April 2022	Corporate risk register	A workshop be arranged in October or November 2022 to consider the first iteration of the strategic risk register and to examine one or two strategic risks in greater detail.	Head of Corporate Performance	Corporate Services	[Update requested from action owner]	[Update requested from action owner]	



Title of report: Re-thinking governance

Meeting: Audit and governance committee

Meeting date: Tuesday 10 May 2022

Report by: Interim head of legal services / Director of governance and legal services, Corporate Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

To consider the suggested amendments to the council's constitution proposed by the re-thinking governance member and officer working group for recommendation to Council.

Recommendation(s)

That:

- a) **having regard to the work undertaken by the re-thinking governance working group, the audit and governance committee functions as set out in appendix 1 and the two proposed changes to the constitution set out in paragraphs 9 and 10 be recommended to full Council for adoption, with implementation with effect from 20 May 2022; and**
- b) **authority be delegated to the Director of Governance and Legal Services to make technical amendments (as required by law, grammatical, formatting, and consistency) necessary to finalise the revised constitution.**

Alternative options

1. To reject the proposed amendments and retain the current constitution and policies unamended: this is not recommended because the amendments have been proposed in order to either:
 - a) Improve clarity; or

Further information on the subject of this report is available from
 Kate Charlton, Claire Porter, email: Kate.Charlton@herefordshire.gov.uk,
Claire.Porter2@herefordshire.gov.uk

b) Improve the efficiency and effectiveness of the council’s governance arrangements

2. To propose alternative or additional amendments; it is open to the committee to propose that consideration be given to alternative or additional amendments. However additional time may be required in order for the working group to assess the impacts of any such proposals and to consult with the working group as necessary.

Key considerations

3. On 11 October 2019, Council resolved to review its governance arrangements to investigate and explore options for the future. The following guiding principles were set by the Council:
 - To maximise member engagement and participation in decision-making.
 - To ensure decision-making is informed, transparent and efficient.
 - To welcome public engagement.
 - To enable members and officers to perform effectively in clearly defined functions and roles.
 - To assess any resource implications for any proposed changes.
4. The review was undertaken by a cross-party member working group, the current membership of which is

Member	Substitute member	Political Group	Function
Councillor Bolderson		Conservatives	Audit and Governance
Councillor Bartlett	Councillor Toynbee	Green	Scrutiny
Cllr Harvey		Independents for Herefordshire	Planning and Regulatory
Councillor James		Liberal Democrat	Employment Panel
Councillor Matthews	Councillor M Jones	True Independents	Scrutiny

5. On 9 October 2020, Council resolved upon recommendation from this committee: “having regard to the work undertaken by the Re thinking Governance working group and the recommendation of audit and governance committee, a hybrid cabinet model of governance is approved with implementation from annual council in May 2021.”
6. At the Council meeting on 4 March 2022, council approved a number of changes to the constitution following the recommendation of the audit and governance committee meeting on 25 January 2022.
7. At that time, there was still work to be concluded on the audit and governance committee functions. This report deals with those outstanding matters.
8. On 15 March 2022, the re-thinking governance working group considered audit and governance committee functions and these revised functions as a clean version are attached at appendix 1. A tracked change version of the changes to the function are attached at appendix 2.
9. As part of the re-thinking governance working group meeting, it was agreed that treasury management function should sit within the remit of the new scrutiny management board as that board will also be considering the council’s budget. On this basis, the re-thinking governance

working group are recommending that treasury management be added to the scrutiny management board functions at Part 3, Section 4, Scrutiny Functions.

10. For information, there will be a technical change in relation to the membership of Standing advisory council on religious education (SACRE):

Article 9, Joint Arrangements: insert following groups into Group A at 2.9.21:

One representative of the Hindu faith;
One representative of the Quaker faith;
One representative of Humanism

11. The above amendment is being made in accordance with the Education Act 1996 (as amended) and at the request of the SACRE committee.

Community impact

12. Corporate governance is the term used to describe the systems, processes, culture and values the council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance includes encouraging better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk. Periodic reviews of the models of governance adopted by the council and the established processes and culture are valuable ways in which the council can demonstrate how the council uphold the code of corporate governance.
13. This work forms part of a formal corporate delivery plan, 2020 to 2022, commitment to: Complete the review of governance arrangements and implement new arrangements and constitution. This report brings the audit and governance committee up to date with progress toward that objective.
14. The council is responsible, as a corporate parent, for providing the best possible care and safeguarding for children who are looked after by the council, and as part of this must consider the impact of decision making on looked after children and care leavers. Any review of models of governance and mechanisms for stakeholder engagement in decision-making must consider how this responsibility may best be discharged.

Environmental impact

15. The development of a revised governance model will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

Equality duty

16. 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.

16. The public sector equality duty (specific duty) requires the council 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. Any review of governance models and decision making processes must ensure this duty is demonstrably upheld and promoted.

Resource implications

17. There are no resource implications with this decision. The resource allocation for the revised governance arrangements were approved by Council on 4 March 2022.

Legal implications

18. The council is required to have a constitution. The proposed new model will provide the basis for changes to the current constitution to be adopted and implemented at the next annual council meeting.

Risk management

Risk / opportunity	Mitigation
Insufficient time to make all operational changes	Project management support in place to ensure milestones are met
Structural changes do not make cultural changes needed to strengthen function of all committees	Training on the refreshed model and functions of scrutiny has been procured by Centre For Governance and Services and training for A&G committee on their refreshed terms of reference will also be procured with an effectiveness review in a year’s time
Insufficient time to re-present the constitution	This is not time critical
Changes do not meet the design principles agreed by Council	A review will be undertaken in May 2023

19. These are all operational risks that will be managed by the project lead from the programme management office and may be escalated to the Law and Governance risk register in accordance with the risk management policy.

Consultees

20. All political groups are represented in the working group. The non-aligned member declined to participate in the working group.

Appendices

Appendix 1 - Part 3 Section 5 Other Functions, Audit and Governance Committee Functions – clean version

Appendix 2 - Part 3 Section 5 Other Functions – tracked change version

Background papers

None identified.

Section 5 - Other functions

This section contains a description of the bodies who have functions delegated to them by Council.

Those functions are those carried out as follows:

- Town and country planning, development control (the planning functions) and licensing functions
- Audit and governance functions
- Standards panel functions
- Employment functions
- Health and wellbeing board

3.5.1 Planning and regulatory committee

3.5.2 When the committee carries out its planning functions it will follow the planning rules (part 4 section 8) and the planning code (part 5 section 6)

3.5.3 The committee functions are detailed in appendix one to the council functions scheme.

3.5.4 The committee will determine applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director regulatory, environment and waste services, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director regulatory, environment and waste services, raises issues of a significant and/or strategic

nature that a planning committee determination of the matter would represent the most appropriate course of action, or

- (g) in any other circumstances where the assistant director regulatory, environment and waste services believes the application is such that it requires a decision by the planning and regulatory committee.

3.5.5 Licensing functions

3.5.6 The functions of the licensing authority (contained in appendix 1) are to be taken or carried out by the licensing subcommittee. The Council has delegated some of these functions to the chief executive as also detailed in appendix 1.

3.5.7 The licensing sub-committee determines the following;

- (a) Applications for personal licences (if police objection);
- (b) Applications for personal licences with unspent convictions;
- (c) Applications for premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (d) Applications for provisional statements (if relevant representation are made as specified in the Licensing Act 2003);
- (e) Applications to vary premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (f) Applications to vary designated premises supervisor (if police objection);
- (g) Requests to be removed as a designated premises supervisor
- (h) Applications for transfer of premises licence (if police objection);
- (i) Applications for interim authorities (if police objection);
- (j) Applications to review premises licences/club premises certificate;
- (k) Deciding whether to object when the authority is a consultee and not the relevant authority considering an application;
- (l) Determination of objections to temporary event notices;
- (m) Determination of application to vary premises licence at community premises to include alternative licence condition (if police objection)
- (n) Revocations of licences where convictions come to light
- (o) Appeals in relation to refusals (full or part) for a pavement licence under Business and Planning Act 2020

3.5.8 Audit and governance functions

3.5.9 The purpose of an audit committee is to provide independent assurance to Cabinet and Full Council on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes. The responsibility for functions are set out in paragraphs 3.5.15 to paragraphs 3.5.21

3.5.11 To help maintain its independence, the Committee is able to meet privately and separately with the External Auditor and the Head of Internal Audit ~~as necessary~~ to seek assurance that effective and strong financial management arrangements are in place.

3.5.13 The membership of the Audit Committee shall comprise seven members of the council and may also include an independent expert who is not a councillor but is appointed by council. Voting rights of the expert can only be exercised if the committee is making recommendations or advising on a particular item. The expert is not able to exercise a vote in relation to any decision making function of the committee. The minutes of the meeting should state in what capacity the Independent person is voting.

For the avoidance of doubt the independent expert is not an independent persons appointed by the council as set out in procedure rule 4.9.26

3.5.14 The Committee will meet approximately 8 times a year and a quorum of three elected members (including the Chair or Vice Chair) is required for decisions of the Committee to be ratified

3.5.15 The Committee shall:

- (a) review matters relating to internal audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements
- (b) enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence
- (c) contribute towards making the authority, its committees and departments more responsive to the audit function
- (d) review compliance with the relevant standards, code of conduct, codes of practice and corporate governance policies
- (e) act within the Council's Constitution

3.5.16 Internal audit

- (a) To review and agree the internal audit charter, the internal audit plan which will include the budget and resource plan.
- (b) To agree any significant additional internal audit consulting services which are not included in the internal audit plan.
- (c) 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
- (d) To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary
- (e) To consider reports dealing with the management and performance of the providers of Internal Audit Services to include the approval of appointment of the Internal Audit Services or recommend the removal of the Internal Audit Services
- (f) To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale
- (g) To be able to call senior officers and appropriate members to account for relevant issues within the remit and responsibilities of the Committee
- (h) To seek assurance and confirm the independence of the internal audit and review safeguards in place to limit impairments
- (i) 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.

3.5.17 External audit

- (a) Review and agree the External Auditors annual plan, including the annual audit Fee and annual letter and receive regular update reports on progress
- (b) To consider specific reports from the External Auditor
- (c) To meet privately with the External Auditor if required
- (d) To comment on the scope and depth of external audit work and to ensure it gives value for money
- (e) To recommend appointment of the council's local (external) auditor
- (f) Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.

3.5.18 Governance

- (a) 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

- (b) To monitor the effective development and operation of risk management and corporate governance in the council
- (b) To monitor the effective development and operation of the assurance framework and partnership governance for the council
- (c) To monitor the effective development and operation of value for money framework for the council management
- (d) To maintain an overview and agree changes to the council policies on whistleblowing and the 'Anti-fraud and corruption strategy'.
- (e) To monitor the effectiveness and operation of the anti-fraud and corruption strategy.
- (f) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption
- (g) 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
- (h) The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance
- (i) To annually review the council's information governance requirements
- (j) 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)
- (k) To undertake community governance reviews and to make recommendations to Council.

3.5.19 Waste contract

- (a) 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
- (b) 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
- (c) 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

- (d) 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.

3.5.20 Code of conduct

- (a) To promote and maintain high standards of conduct by members and co-opted members of the Council
- (b) 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
- (c) 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
- (d) To keep the code of conduct under review and recommend changes/replacement to Council as appropriate
- (e) To publicise the adoption, revision or replacement of the Council's Code of Conduct
- (f) To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment
- (g) 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.
- (h) To grant dispensations under Section 33 (2)(b)(d) and (c) Localism Act 2011 or any subsequent amendment
- (i) To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer

To review any dispensations which have been granted by the monitoring officer under 33 (2)(a) and (c) Localism Act 2011 at the next available meeting of the committee

3.5.21 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.

3.5.22 Standards panel

3.5.23 Council has agreed that the arrangements for determining breaches of the code of conduct for members will include consideration and determination of complaints (a) where the matter cannot be resolved by the Monitoring Officer, or (b) an appeal.

3.5.24 The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the monitoring officer and produce a report.

3.5.25 The panel will also undertake an twice a year sample review of decisions made by the monitoring officer under the code of conduct complaint process.

3.5.26 Employment functions

3.5.27 Council has agreed that an employment panel be established and will fulfil the following functions:

(a) Be the appropriate body to fulfil the employment functions as set out in part 4 section 9 of the procedure rules in relation to: the head of paid service (to include returning officer and electoral registration officer functions), director for adults and communities, director of children and families; director for economy and place, director of public health, monitoring officer and s151 officer.

(b) Review the annual pay policy statement and make recommendations to Council

(c) Be a consultee on all terms and conditions including policies for all staff

(d) Approve the performance and development framework for annual assessment of the chief executive

The chair of the employment panel has delegated authority to suspend to head of paid service.

3.5.28 Health and wellbeing board functions

3.5.29 Herefordshire Council has established a health and wellbeing board in accordance with the provisions of the Health and Social Care Act 2012

3.5.30 The functions of the board are:

(a) To encourage those who arrange the provision of any health or social care services in Herefordshire to work in an integrated manner for the purpose of advancing the health and wellbeing of the people of Herefordshire.

(b) To provide such advice, assistance or other support as it thinks appropriate, for the purpose of encouraging the making of prescribed arrangements under S 75 National Health Service Act 2006.

(c) To encourage those who arrange for the provision of any health related services in Herefordshire to work closely with the health and wellbeing board.

- (d) To encourage the close working of those providing health or social care services with those who arrange for the provision of health related services in Herefordshire.
- (e) To prepare a health and social care joint strategic needs assessment (Understanding Herefordshire) for the county
- (f) To prepare a health & wellbeing strategy to meet those needs
- (g) Reviewing whether the commissioning plans and arrangements for the NHS, public health and social care (including Better Care Fund submissions) are in line with and have given due regard to the health and wellbeing strategy
- (h) To prepare and publish a local Pharmaceutical Needs Assessment under S206 of the 2012 Act.

and additionally:
 - (i) To give its opinion, as appropriate, to Herefordshire Council, the Clinical Commissioning group or NHS commissioning Board, as to whether they are discharging their duty to have regard to any assessment of relevant needs prepared by the Council, the Clinical Commissioning Group or NHS commission Board in the exercise of their functions.
 - (j) To sign off annual plans and periodic performance submissions for the better care fund

Section 5 - Other functions

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- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director regulatory, environment and waste services, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director regulatory, environment and waste services, raises issues of a significant and/or strategic

nature that a planning committee determination of the matter would represent the most appropriate course of action, or

- (g) in any other circumstances where the assistant director regulatory, environment and waste services believes the application is such that it requires a decision by the planning and regulatory committee.

3.5.5 Licensing functions

3.5.6 The functions of the licensing authority (contained in appendix 1) are to be taken or carried out by the licensing subcommittee. The Council has delegated some of these functions to the chief executive as also detailed in appendix 1.

3.5.7 The licensing sub-committee determines the following;

- (a) Applications for personal licences (if police objection);
- (b) Applications for personal licences with unspent convictions;
- (c) Applications for premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (d) Applications for provisional statements (if relevant representation are made as specified in the Licensing Act 2003);
- (e) Applications to vary premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (f) Applications to vary designated premises supervisor (if police objection);
- (g) Requests to be removed as a designated premises supervisor
- (h) Applications for transfer of premises licence (if police objection);
- (i) Applications for interim authorities (if police objection);
- (j) Applications to review premises licences/club premises certificate;
- (k) Deciding whether to object when the authority is a consultee and not the relevant authority considering an application;
- (l) Determination of objections to temporary event notices;
- (m) Determination of application to vary premises licence at community premises to include alternative licence condition (if police objection)
- (n) Revocations of licences where convictions come to light
- (o) Appeals in relation to refusals (full or part) for a pavement licence under Business and Planning Act 2020

3.5.8 Audit and governance functions

3.5.9 The purpose of an audit committee is to provide independent assurance to Cabinet and Full Council on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes. The responsibility for functions are set out in paragraphs 3.5.15 to paragraphs 3.5.21

~~3.5.10 The Committee will be a fully constituted committee of the Council and act independently of the Authority's Executive and scrutiny functions and its membership shall not include Cabinet members or Scrutiny members.~~

~~3.5.11 To help maintain its independence, the Committee is able has the right to meet privately and separately with the External Auditor and the Head of Internal Audit as necessary to seek assurance that effective and strong financial management arrangements are in place.~~

~~3.5.12 The business of the Committee will be conducted apolitically~~

~~3.5.13 The membership of the Audit Committee shall comprise a seven members of the council and may also include an independent person expert who is not a councillor but is appointed by council and has the same voting rights as other members of the committee minimum of 7 Members of the Council and [a maximum of three co-opted non-voting members]. Voting rights of the expert can only be exercised if the committee is making recommendations or advising on a particular item. The expert is not able to exercise a vote in relation to any decision making function of the committee. The minutes of the meeting should state in what capacity the Independent person is voting.~~

For the avoidance of doubt the independent expert is not an independence persons appointed by the council as set out in procedure rule 4.9.26

~~3.5.14 The Committee will meet approximately least 38 times a year and a quorum of three elected members (including the Chair or Vice Chair) is required for decisions of the Committee to be ratified~~

~~3.5.15 The Committee shall:~~

~~(a) - review matters relating to internal audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements~~

~~(b) enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence~~

~~(c) contribute towards making the authority, its committees and departments more responsive to the audit function~~

~~(d) review compliance with the relevant standards, code of conduct, codes of practice and corporate governance policies~~

(e) act within the Council's Constitution

3.5.106 Internal audit

(a) To review and agree the internal audit charter, the internal audit plan which will include the budget and resource plan.

(b) To agree any significant additional internal audit consulting services which are not included in the internal audit plan.

~~(a)~~(c) 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

~~(b)~~(d) To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary

(e) To consider reports dealing with the management and performance of the providers of Internal Audit Services to include the approval of appointment of the Internal Audit Services or recommend the removal of the Internal Audit Services

~~(e)~~(f) To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale

(g) To be able to call senior officers and appropriate members to account for relevant issues within the remit and responsibilities of the Committee

~~(d)~~(h) To seek assurance and confirm the independence of the internal audit and review safeguards in place to limit impairments

~~(e)~~(i) 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.

3.5.147 External audit

(a) Review and agree the External Auditors annual plan, including the annual audit Fee and annual letter and receive regular update reports on progress

(b) To consider specific reports from the External Auditor

(c) To meet privately with the External Auditor ~~once a year~~ if required

(d) To comment on the scope and depth of external audit work and to ensure it gives value for money

- (e) To recommend appointment of the council's local (external) auditor
- (f) Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.

3.5.128 Governance

- (a) 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
- ~~(b)~~ (b) To monitor the effective development and operation of risk management and corporate governance in the council
- (b) To monitor the effective development and operation of the assurance framework and partnership governance for the council
- (c) To monitor the effective development and operation of value for money framework for the council management
- (d) To maintain an overview and agree changes to the council policies on whistleblowing and the 'Anti-fraud and corruption strategy'.
- ~~(e)~~ (e) To monitor the effectiveness and operation of the anti-fraud and corruption strategy.
- ~~(d)~~ (f) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption
- ~~(e)~~ (g) 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
- ~~(f)~~ (h) The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance
- ~~(g)~~ (i) To annually review the council's information governance requirements
- ~~(h)~~ (j) 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)
- ~~(i)~~ To adopt an audit and governance code
- (k) To undertake community governance reviews and to make recommendations to Council.

Treasury management oversight

~~(l) To undertake an annual effectiveness review of the council's treasury management processes and decisions.~~

~~(i)(m) To review Internal Audit annual report on the council's treasury function as part of their normal audit programme.~~

3.5.139 Waste contract

- (a) 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
- (b) 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
- (c) 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
- (d) 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.

3.5.1420 Code of conduct

- (a) To promote and maintain high standards of conduct by members and co-opted members of the Council
- (b) 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
- (c) 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
- (d) To keep the code of conduct under review and recommend changes/replacement to Council as appropriate
- (e) To publicise the adoption, revision or replacement of the Council's Code of Conduct
- (f) To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment

- (g) 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.
- (h) To grant dispensations under Section 33 (2)(b)(d) and (c) Localism Act 2011 or any subsequent amendment
- (i) To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer
- (i) ~~To consider review any dispensations which have been granted by the monitoring officer under 33 (2)(a) and (c) Localism Act 2011 at the next available meeting of the committee~~

3.5.1521 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.

3.5.1622 Standards panel

3.5.1723 Council has agreed that the arrangements for determining breaches of the code of conduct for members will include consideration and determination of complaints (a) where the matter cannot be resolved by the Monitoring Officer, or (b) an appeal.

3.5.1824 The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the monitoring officer and produce a report.

3.5.1925 The panel will also undertake an ~~annual~~ twice a year sample review of decisions made by the monitoring officer under the code of conduct complaint process.

3.5.2026 Employment functions

3.5.2127 Council has agreed that an employment panel be established and will fulfil the following functions:

- (a) Be the appropriate body to fulfil the employment functions as set out in part 4 section 9 of the procedure rules in relation to: the head of paid service (to include returning officer and electoral registration officer functions), director for adults and communities, director of children and families; director for economy and place, director of public health, monitoring officer and s151 officer.
- (b) Review the annual pay policy statement and make recommendations to Council

- (c) Be a consultee on all terms and conditions including policies for all staff
- (d) Approve the performance and development framework for annual assessment of the chief executive

The chair of the employment panel has delegated authority to suspend to head of paid service.

3.5.2228 Health and wellbeing board functions

3.5.2329 Herefordshire Council has established a health and wellbeing board in accordance with the provisions of the Health and Social Care Act 2012

3.5.2430 The functions of the board are:

- (a) To encourage those who arrange the provision of any health or social care services in Herefordshire to work in an integrated manner for the purpose of advancing the health and wellbeing of the people of Herefordshire.
- (b) To provide such advice, assistance or other support as it thinks appropriate, for the purpose of encouraging the making of prescribed arrangements under S 75 National Health Service Act 2006.
- (c) To encourage those who arrange for the provision of any health related services in Herefordshire to work closely with the health and wellbeing board.
- (d) To encourage the close working of those providing health or social care services with those who arrange for the provision of health related services in Herefordshire.
- (e) To prepare a health and social care joint strategic needs assessment (Understanding Herefordshire) for the county
- (f) To prepare a health & wellbeing strategy to meet those needs
- (g) Reviewing whether the commissioning plans and arrangements for the NHS, public health and social care (including Better Care Fund submissions) are in line with and have given due regard to the health and wellbeing strategy
- (h) To prepare and publish a local Pharmaceutical Needs Assessment under S206 of the 2012 Act.

and additionally:
 - (i) To give its opinion, as appropriate, to Herefordshire Council, the Clinical Commissioning group or NHS commissioning Board, as to whether they are discharging their duty to have regard to any assessment of relevant needs prepared by the Council, the Clinical Commissioning Group or NHS commission Board in the exercise of their functions.
 - (j) To sign off annual plans and periodic performance submissions for the better care fund



Title of report: Code of Conduct

Meeting: Audit and governance committee

Meeting date: Tuesday 10 May 2022

Report by: Interim head of legal services / Director of governance and legal services, Corporate Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

To recommend to Council a revised code of conduct

Recommendation(s)

That:

- a) **The Local Government Association (LGA) model code of conduct, as amended by local arrangements as set out at Appendix 3, is approved for adoption by Herefordshire Council at the annual Council meeting on 20 May 2022; and**
- b) **The LGA model arrangements for dealing with code of conduct complaints is adopted and applied to new complaints received after 20 May 2022.**

Alternative options

1. The existing code of conduct applicable to all members and co-optees of the council could remain in place. This is not recommended because a model code of conduct has been prepared by the Local Government Association (LGA) with the intention that all councils in England adopt this model with local amendments where necessary.

Key considerations

2. Under the Localism Act 2011, Section 27 (2), the council is required to adopt a code of conduct which is applicable to all council members and co-optees. Up until December 2020 there was no proposed national model code for councils to adopt or amend.
3. Parish councils may choose to adopt their principal authority's code of conduct. The council is a principal authority and the majority of parish councils within Herefordshire have adopted the most current version of the code dated 25 May 2018 and a number of parish councils have now adopted the LGA model code of conduct.
4. The council's current code of conduct was last reviewed in 2018 and as part of good practice should be reviewed on a regular basis.
5. On 30 January 2019, the Committee on Standards in Public Life (CSPL) published its review on Local Government Ethical Standards. Recommendation 1 was that the "The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government."
6. Between 8 June and 17 August 2020, the LGA launched a national survey on a draft model code of conduct. Following the resolution of Audit and Governance Committee on 30 July 2020, a response to this survey was submitted on behalf of the committee by the Monitoring Officer.
7. The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the CPSL in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the CSPL's recommendations, this could require a change to the LGA model code of conduct and the council's new code as set out at Appendix 4.
8. Their recommendations cover:
 - Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
 - The introduction of sanctions
 - An appeals process through the Local Government Ombudsman
 - Changes to the Relevant Authorities (Disclosable Pecuniary interests) Regulations 2012
 - Updates to the Local Government Transparency Code
 - Changes to the role and responsibilities of the Independent Person
 - That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished
9. In December 2020, the LGA issued a model code of conduct based on the feedback received as a result of the consultation. The model code of conduct is not mandatory, it will be updated annually by the LGA to ensure it is still fit for purpose. The model code of conduct was further revised by the LGA in May 2021 and is attached at appendix 1.
10. There is no confirmed data as to whether or not all English councils are adopting the model code of conduct. However, anecdotally a proportion of councils are now adopting the model code in its entirety or are adopting with local amendments.
11. At the Audit and Governance Committee held 23 January 2022, it was resolved that a consultation with all parish councillors and ward councillors be undertaken to seek their views on the model code of conduct and the model arrangements.

12. The consultation with councillors within Herefordshire took place between 2 February 2022 and 25 March 2022. There were 8 responses from either parish councils or individual parish councillors and 6 from ward members.
13. There were 9 responses which reflected that the current 5.2.14 (d) paragraph (Schedule 2 Interests) relating to membership of any body “is not open to the public without formal membership” be retained in the Council’s adopted code of conduct.
14. Following consideration of the model code of conduct and the responses received, the Monitoring Officer is recommending that the LGA model of conduct be adopted with the local amendments as set out in Appendix 3.
15. Following consideration of the model arrangements for dealing with code of conduct complaints, the Monitoring Officer is seeking the endorsement from the committee that the LGA model arrangements for handling of code of conduct complaints are adopted with no local amendments (Appendix 2). The adoption of the model arrangements should enable the benchmarking with other local authorities to take place as currently most authorities arrangements do vary making this extremely difficult.
16. The comparison between the council’s current code of conduct and the LGA Model Code of Conduct is set out at Appendix 4 (to follow).
17. It is proposed that the model code of conduct, subject to adoption by the Council at the annual meeting, comes into effect from 21 May 2022.

Community impact

18. The code of conduct sets out the standards expected of councillors when undertaking their duties as a councillor. Having a clear and unambiguous code will enable residents of Herefordshire to understand the conduct which they should expect to receive from councillors.

Environmental impact

19. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been given to minimise waste and resource use in line with the council’s Environmental Policy.

Equality duty

20. 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.
21. 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 decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

22. There are no resource implications associated with these recommendations.

Legal implications

23. There are no legal implications arising from the recommendations in this this report.

24. The substantive legal issues are discussed in the key considerations paragraphs of this report

Risk management

25. There are no risks arising directly from the report. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint however the new Model Code provides LGA Guidance to Monitoring Officers on Code of Conduct Handling.

26. The fact that there are no real sanctions that can be applied and only recommendations can be made by the Monitoring Officer exposes the council to risk of criticism; this is a result of the national framework which the CPSL considered.

Consultees

27. All parish councils, parish councillors and ward councillors were consulted and their views have been reflected in the local amendments being proposed.

Appendices

Appendix 1 - LGA Model Councillor Code of Conduct

Appendix 2 - LGA Guidance on Member Model Code of Conduct Complaints Handling

Appendix 3 - LGA Model Councillor Code of Conduct as amended to take account of local amendments

Appendix 4 - Comparison between the council's current code of conduct and the LGA Model Code of Conduct – *to follow*

Background papers

- 1) [LGA Model Councillor Code of Conduct 2020 | Local Government Association](#)
- 2) [Guidance on Member Model Code of Conduct Complaints Handling | LGA](#)



Local Government Association
Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

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 disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

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.

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.

Honesty

Holders of public office should be truthful.

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.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

<p>You must register as an Other Registerable Interest :</p> <ul style="list-style-type: none"> a) any unpaid directorships b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any body <ul style="list-style-type: none"> (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) <p>of which you are a member or in a position of general control or management</p>

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Guidance on Member Model Code of Conduct Complaints Handling

1. Introduction

It is vital that the public has confidence in the high standards of local government, and that there is transparency about the conduct of councillors and the mechanisms for dealing with alleged breaches of the Codes of Conduct. Equally, it is vital that councillors themselves have confidence in these mechanisms, and that investigations into such complaints abide by the principles of natural justice.

Any reference in this guidance to ‘you’ is a reference to a monitoring officer, a deputy monitoring officer, or any person nominated by them to carry out their functions. Furthermore, any reference to the ‘subject member’ is a reference to the councillor who is the subject of the allegation and references to an Independent Person means an Independent Person appointed under s. 28(7) of the Localism Act 2011.

Under the Model Code of Conduct, councillors are required to cooperate with any Code of Conduct investigation and respect the impartiality of officers. This is in recognition of the key role monitoring officers have in ensuring what might be contentious and difficult issues are handled fairly. This guidance is to support them in carrying out their duties.

The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities must have a Code of Conduct for councillors, which must be consistent with the “Seven Principles of Public Life”, selflessness, honesty, integrity, objectivity, accountability, openness and leadership.

Under Section 28 of the Localism Act 2011, local authorities (other than parish and town councils) must have in place ‘arrangements’ under which allegations that an elected or co-opted councillor of the authority or of a town or parish council within the principal authority’s area has failed to comply with the authority’s Code of Conduct can be considered and decisions made on such allegations. It is for the principal authority to decide the details of those arrangements, but they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that they have decided to investigate.

This guidance is for guidance purposes only and where it differs from the authority’s own arrangements under the Localism Act then the authority’s arrangements should be followed.

s28 (6) A relevant authority other than a parish council must have in place—

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought—

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

The case of R (Harvey) v Ledbury Town Council 2018 (R Taylor v Honiton TC) made clear that allegations of a failure to follow an authority's Code of Conduct can only be considered in accordance with the principal authority's standards arrangements. Though the conduct complained of may give rise to a staff grievance, for example, the subject member cannot receive a sanction outside of the standards arrangements.

Background

More than 100,000 people give their time as councillors. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly. Even where behaviour does fall short most issues are resolved easily through a simple apology or through swift action from an officer, a political group or meeting chair. Reference to the Code of Conduct and a formal complaint are very much the last resort where issues remain unresolved.

Anyone who considers that a councillor may have breached the Code of Conduct may make a complaint to that councillor's local authority, usually via the principal authority's monitoring officer. Each complaint must be assessed to see if it falls within the authority's legal jurisdiction, for example whether the subject member was acting as a councillor or representative of the authority at the time. A decision must then be made on whether or not some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that a decision has been made about the validity of the allegation. It simply means that the authority believes the alleged conduct, if proven, may amount to a failure to comply with the Code of Conduct and that some action should be taken in response to the complaint.

The process for dealing with Code of Conduct complaints must be fair and be seen to be fair.

2. Initial assessment of complaints

Responsibilities

The law does not specify how complaints are to be handled. However, in most authorities, initial assessment of complaints that a councillor may have breached the Code of Conduct is usually carried out by the authority's monitoring officer. In other authorities all complaints go to an assessment committee of councillors for consideration. This is a matter for local choice, but the authority should be satisfied that whatever assessment arrangements it adopts, the assessment can be carried out fairly, objectively and without undue delay.

Even where the matter is normally delegated to the monitoring officer, they may reserve the right to refer the matter to a committee of councillors, for example where the monitoring officer has a conflict of interest or the matter is particularly high-profile.

Whichever approach (or any other) is taken, it is important to have published criteria against which complaints can be assessed to aid transparency and consistency (see below).

Independent Persons (IPs) are people who are neither councillors nor officers of the authority but are appointed under Section 28 of the Localism Act 2011 to work with the authority to support them with Code of Conduct complaints and standards issues. Under the Localism Act their views must be sought and taken into account on any matter under investigation, the subject member may seek their views at any stage and the authority may also seek their views at any other stage of the process.

The Committee on Standards in Public Life has recommended that authorities should also seek the views of the IP when initially assessing a case as a further way of ensuring consistency and enhancing public confidence in the framework.

Pre-assessment

Publicising the complaints system

Local authorities, including parish and town councils, should publish information on their websites about the Code of Conduct, about what can and cannot be considered as a complaint, how to complain (including a standard complaints form if appropriate) and where Code of Conduct complaints should be sent to. They should also provide clear details of the procedures they will follow in relation to any written allegation received about a councillor.

Where a principal authority is responsible for handling complaints about its parish and town councillors, it should also make this clear.

The submission of complaints and accessibility

Local authorities should consider that some complainants will not know where to direct their complaint. Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with any incoming complaints to the authority will therefore need to be alert to a complaint that a councillor may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the relevant person for consideration.

Local authorities may produce a complaint form which sets out all the information they expect to receive from a complainant. This can be helpful to both the authority and the complainant. However, authorities cannot compel complainants to use a complaint form.

If an authority does not have a complaint form, it should nevertheless give clear guidelines as to the information that complainants need to provide.

The required information may include:

- the complainant's name, address and other contact details;
- who the complainant is, for example, a member of the public, fellow councillor or officer;
- who the complaint is about and the authority or authorities that the councillor belongs to;
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information;
- equality monitoring data if applicable, for example the nationality of the complainant.

The authority should also make it clear that only in exceptional circumstances would a complainant be granted confidentiality and that as a matter of fairness the complainant's identity would normally be disclosed to the subject member (see section below on confidentiality).

A complaint may arise from an expression of dissatisfaction or concern, which come about in a number of ways initially, including verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant. If it is a significant complaint, which the complainant is unwilling to commit to writing (for example because they feel they are being bullied), the monitoring officer may wish to reassure the complainant about confidentiality and draft the complaint for agreement with the complainant.

Under the Localism Act, however, formal complaints must be submitted in writing. This include electronic submissions, though the requirement for complaints to be submitted in writing must be read in conjunction with the Equality Act 2010 and the duty to make adjustments. For example, a complainant may have a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to complainants.

Authorities should not normally allow anonymous complaints as that would be against the principles of transparency and fairness and make matters much more difficult to investigate. However, there may be exceptional compelling reasons why an anonymous complaint could be accepted without detriment to the process and where the allegation can be evidenced without reference to the complainant. For example, if an anonymous complainant submitted a video

showing the councillor acting inappropriately or sent in documentation disclosing an undeclared directorship in a matter relating to local authority business, it may be considered that the public interest in investigating the allegation outweighed the issue of anonymity.

Please note that anonymity and confidentiality are different concepts. Anonymity means the complainant is not known whereas confidentiality means that the complainant is known to the authority but their identity has been withheld for a specific reason.

Complaints which identify criminal conduct or a breach of other regulations by any person may be referred to the police or any other relevant regulatory agency for consideration, in accordance with any agreed protocol. In such cases the authority, in agreement with the other body, should consider pausing the assessment of the complaint pending action by the other body.

Acknowledging receipt of a complaint

When a complaint is received by the local authority the relevant officer should acknowledge its receipt and set out the process to be taken to assess the complaint with an agreed timescale.

The authority may also notify the subject member that a complaint has been received and invite their comments on it within an agreed timescale. In deciding whether or not to notify the subject member they would need to weigh up different factors. For example, would telling the subject member risk that the complainant may be intimidated or evidence destroyed, or if the complaint seems to fall outside of the jurisdiction of the Code is there any need to hear from the councillor? However, the presumption would normally be to invite the subject member to comment as this can help the authority to decide whether a matter can be dealt with informally without the need for a formal investigation, for example.

If the authority does tell the subject member about the complaint, the relevant officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. Additionally, the impact of the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR) should be considered to ensure that any personal data is processed fairly and lawfully at every stage of the process. Reasonable expectations of privacy need to be balanced against the public interest.

Pre-assessment enquiries and reports

When the authority notifies the subject member that a complaint has been made about them, and seeks any relevant comments, the subject member should be given a short timeframe in which to submit their comments such as 10 working days from the date of the notification. In parish cases the principal authority may also notify the clerk and may ask for relevant factual information which would help in the assessment of the complaint.

In notifying the subject member it should be made clear that no judgment one way or the other has been made about whether the allegation is in fact true.

The authority may contact complainants for clarification of their complaint if they are unable to understand the document submitted.

The authority may also carry out preliminary enquiries, for example whether the member was in fact present at the meeting to which the complaint relates. However, such enquiries should be limited to readily-available public records so as not to extend to a more formal investigation.

In authorities where the assessment is carried out by a committee rather than an officer, they may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the committee to consider. This could, for example, set out the following details:

- Whether the complaint is within jurisdiction;
- The paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified;
- A summary of key aspects of the complaint if it is lengthy or complex;
- Any further information that the officer has obtained to assist the committee with its decision, for example initial comments from the subject member, minutes of meetings or a copy of a councillor's entry in the register of interests. However, it should be noted that these pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member (although they may have been asked for initial comments) as that would be a matter for any formal investigation should the case proceed;
- The views of the Independent Person.

Assessment

Initial tests

The assessment of a complaint would normally be a two-step process, described by the Committee on Standards in Public Life as the 'can/should' stages – the first stage being 'can we deal with this complaint?' and the second being 'should we deal with this complaint?'.

The first step would be a jurisdictional test and would assess whether the complaint is:

- against one or more named councillors of the authority or of a parish or town council the authority is responsible for;
- the named councillor was in office at the time of the alleged conduct;
- the complaint relates to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter;
- the complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint. If there is any doubt, however, the allegation should proceed to the second stage. For example, if it is unclear whether the councillor was acting 'in capacity' or not then the second stage of assessment criteria should be used.

Where a matter is being referred to a committee of councillors for assessment, we would expect the monitoring officer only to pass cases which have met the jurisdictional threshold.

Second-stage criteria

Once these jurisdictional tests have been met the authority should have further criteria against which it assesses complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all complaints by established criteria will also protect the authority from accusations of bias. Assessment criteria can be reviewed and amended as necessary, but this should not be done during consideration of a matter.

In drawing up assessment criteria, authorities should bear in mind the importance of ensuring that complainants are confident that complaints about councillor conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and councillors' time. This is an important consideration where the matter is relatively minor.

The following non-exclusive factors may help an authority to develop local criteria:

1. Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?
2. Are there alternative, more appropriate, remedies that should be explored first?
3. Where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression;
4. Is the complaint in the view of the authority malicious, politically motivated, or 'tit for tat'?
5. Whether an investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction (see guidance on hearings);
6. Whether a substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration;
7. Whether a substantially similar complaint has been submitted and accepted;
8. Does the complaint relate to conduct in the distant past? This would include consideration or any reason why there had been a delay in making the complaint;
9. Was the behaviour that is the subject of the complaint already dealt with? For example, through an apology at the relevant meeting;
10. Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual? And
11. Is it about someone who is no longer a councillor or who is seriously ill?

Some of these criteria are inevitably subjective. For example, who decides if a complaint is trivial? The complainant may feel they have a genuine grievance even if to a third party it seems relatively minor.

Equally even if a complaint seems to be 'politically motivated' it may nevertheless be highlighting a potentially significant breach of the Code which could not be ignored.

Such criteria can therefore only ever be indicative, and authorities always need to take into account the public interest in taking further action on a complaint. Assessment criteria should be adopted

which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

In assessing any case, an authority may want to consider the following questions in the context of local knowledge and experience:

Has the complainant submitted enough information to satisfy the authority that the complaint should be referred for investigation or other action?

If the answer is no, it should be made clear to the complainant that there is insufficient evidence to make a decision so unless, or until, further information is received, the authority will take no further action on the complaint. When doing so, the complainant should be given a clear timeline to submit any further evidence or otherwise the file will be closed.

Is the complaint about someone who is no longer a councillor?

The councillor may have been a councillor at the time of the alleged misconduct but may have since ceased to be a councillor. The authority will need to consider whether it still has jurisdiction. If so, then the authority may not want to take any further action unless they believe the matter is so serious, and the councillor may return to the authority that it would still be in the public interest to pursue the matter. If they do pursue the matter the range of potential sanctions is inevitably more limited and may extend only to publication of the report and a formal censure.

If the councillor is still a member of another principal authority, the authority may wish to refer the complaint to that authority if it would also fall within their code of conduct.

If a councillor is still a member of a town or parish council within the principal authority's area, then the principal authority can still deal with the matter if it relates to matters at the town or parish council.

Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

Where a matter happened some time ago then the authority may decide that any further action would be unwarranted. For example, an investigation may be difficult as people's recollections may have faded. The authority may therefore wish to set a time limit for receiving complaints of say six months under normal circumstances. However, it should also be borne in mind that there may be a good reason why a complaint is 'late' – for example, victims of bullying or harassment may have needed time and courage before coming forward or been made aware of other incidents which has prompted them to make a complaint about things in the past.

Does the complaint appear to be trivial, malicious, politically motivated or tit-for-tat?

Where a complaint is rejected on these grounds the authority should be very clear about the reasons why and discourage politically motivated or tit-for-tat complaints in particular. It will, however, need to satisfy itself that, regardless of any alleged motive of the complainant, the complaint itself is not sufficiently serious to warrant any further action regardless of the motive. A complaint may appear on the face of it to be politically motivated, for example, because of the

timing of its submission, but if it raises sufficiently serious matters it would nevertheless need to be considered fully.

The assessment criteria that the authority adopts should be made publicly available on its website.

Decision

Initial assessment decisions

Where the decision has been delegated to an officer, the authority should aim to complete their initial assessment of an allegation within 15 working days of receiving a complaint. Where they have asked the subject member for comment, they should allow them up to 10 working days to comment and then make the assessment normally within five working days of any comments being received.

Where the subject member has not commented, and the ten working days has elapsed (and they have not provided a reasonable excuse for the delay) the assessment should nevertheless be made within five working days after that.

Where an Independent Person is invited to give their views prior to assessment these should be done at least a day before the final deadline. Where the Independent Person meets in person with the officer to discuss the case, they should nevertheless record their views in writing for the record after the meeting.

Where the assessment is sent to a committee, the committee should be set up along similar timescales. Any inordinate delay in assessing cases can have a damaging effect on trust in the system and is unfair for both the complainant and subject member.

The authority may reach one of the three following decisions on an allegation:

- no further action should be taken on the allegation;
- the matter should be dealt with through a process of informal resolution in the first instance (see section on informal resolution) or;
- the matter should be referred for a formal investigation (see section on investigations).

Decision to take no action

The authority may decide that no further action is required in respect of a complaint based on its agreed criteria.

Where the authority reaches this decision it should be clear that, where an allegation may have disclosed a potential breach of the Code it has nevertheless made no finding of fact as it does not believe it is in the public interest to pursue the matter any further, Where it has been concluded that no potential breach of the Code of Conduct is disclosed by the complaint (for example because it is outside of jurisdiction), no further formal action can be taken by the authority in respect of it.

There should be no right of appeal against a decision not to take any further action if the system is to be efficient and proportionate.

Where the decision was taken by an officer, the monitoring officer may wish to report to the relevant committee periodically on cases in which there has been no further action taken. These cases should be reported confidentially with the aim of giving the committee a picture of issues within the authority and enabling it to assure itself that decisions made have been broadly reasonable in the whole. They are not there to re-open issues.

Referral for informal resolution

When the authority decides that they should seek to resolve the matter informally in the first instance they should refer to the separate guidance on informal resolution.

Referral for investigation

When the authority decides a matter should be referred for investigation it should refer to the separate guidance on investigations.

Notification of assessment decisions

If the authority decides to take no action over a complaint, then as soon as possible after making the decision they should notify the complainant and subject member of the decision and set out clearly the reasons for that decision, including the views of the independent person.

If the authority decides that the complaint should be referred for formal investigation or informal resolution, they should notify the complainant and subject member, stating what the allegation was and what further action is being taken.

In such cases the authority will need to decide whether or not to give the subject member a copy of the full complaint and whether the complainant, where they had been granted confidentiality, should remain confidential for the time being. In doing so they would need to decide whether doing so would be against the public interest or would prejudice any future investigation. This could happen where it is considered likely that the subject member may intimidate the complainant, or any witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. If only one part of a complaint has been referred for action or the complaint is against more than one councillor then the authority may wish only to disclose the relevant parts of the complaint. Any decision to withhold information should be kept under review as circumstances change.

If the subject member is a parish or town councillor and the authority has decided to take some action with regard to the complaint, their parish or town council should also be notified via the clerk. In doing so the authority will need to consider whether any of the information is confidential.

A decision notice should be issued within one working day of the decision being made.

Independent Person

If the views of the Independent Person were sought, this should be made clear in the decision letter and state whether the Independent Person agreed with the decision or not. Where the Independent Person did not agree with the decision, the notification should explain how the authority took account of those views in reaching a different decision – for example in concluding that the matter was not in fact within the scope of the Code but was a private matter.

Other issues to consider

Assessments Committee

Where a committee is convened to assess an allegation, it is an ordinary committee of the authority if it is making the decision. This means it must reflect political proportionality unless that has been waived and it is subject to the notice and publicity requirements under Schedule 12A of the Local Government Act 1972.

However, while there should be a presumption that a hearing following an investigation would normally be held in public (see guidance on hearings) there will be a strong presumption towards an assessment being treated as exempt information. The meeting may have to consider unfounded and potentially damaging complaints about councillors, which it would not be appropriate to make public because of the risk of unfounded reputational damage or the potential risk of prejudicing any future investigation.

Nevertheless, as for any meeting dealing with exempt or confidential information a summary of the outcome would need to be published setting out the main points considered such as:

- the conclusions on the complaint;
- the reasons for the conclusion.

Assessments delegated to officers

Where an assessment decision has been delegated to an officer there is no legislative requirement for a decision notice to be published. Nevertheless, the authority should consider whether an assessment notice should be published in the public interest or not in the same way as they would if it were a committee decision.

What if the subject member is member of more than one authority?

There may be times when the same complaint is made against a member of more than one authority. For example, an allegation may allege that a councillor has failed to register an interest at both district and county level.

In such a case the two authorities should have an agreement about who would carry out the initial assessment (if necessary, under an agreed delegation) and any subsequent action. This avoids the risk of two different actions or conclusions being reached.

The matter would not arise where the councillor was on a town or parish council and also on the ‘principal’ district, unitary or metropolitan council as the principal authority is responsible for handling both complaints. It could however arise if the parish or town councillor were also on the county council in a two-tier area.

3. Informal resolution

When dealing with allegations, an authority can decide that some form of action other than investigation or ‘informal resolution’ is needed at a local level. The authority may also decide that informal resolution may be more appropriate than referring a matter to a hearing following completion of an investigation. Where the authority has delegated such a decision to the monitoring officer, we would expect the monitoring officer to seek the views of an Independent Person before taking such a course of action. Where the delegation is held by a committee, we would expect the committee to consult its monitoring officer and an Independent Person before reaching that decision. You may also consider seeking an informal resolution part way through an investigation rather than completing an investigation if it becomes clear the matter could be resolved amicably. Where informal resolution relates to a formal investigation you must seek the views of an Independent Person before halting or pausing the formal investigation.

Why seek an informal resolution?

An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals. It should be borne in mind however that dealing with a matter by alternative resolution at the initial assessment stage is making no finding of fact as there has been no formal investigation, so you would need to balance the interest in resolving a matter quickly and satisfactorily against the interest in the complainant having their complaint upheld or the member’s desire to clear their name.

Matters which you might consider appropriate for informal resolution may include:

- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority’s procedures;
- a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the authority;
- misunderstanding of procedures or protocols;
- misleading, unclear or misunderstood advice from officers;
- lack of experience or training;
- interpersonal conflict;
- allegations and retaliatory allegations from the same members;
- allegations about how formal meetings are conducted;
- allegations that may be symptomatic of governance problems within the authority, which are more significant than the allegations in themselves.

When would informal resolution not be appropriate?

Complaints should not be referred for informal resolution when you believe an investigation is in the public interest, for example because of the seriousness of the allegations or because it demonstrates a pattern of behaviour. In addition, an allegation which challenges the councillor's honesty or integrity may be better dealt with as a formal investigation because of the potential reputational issues.

Similarly, an informal resolution is not intended to be a quick and easy means of dealing with matters which you consider to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action (see guidance on initial assessments). While an alternative resolution can be a cost-effective way of getting a matter resolved for individual cases, it is not a quick fix particularly where there are more systemic issues. It should not be seen as a routine or cheap way of disposing of an allegation, as it can sometimes be a drawn out, costly and time-consuming process.

You should also take care to avoid it appearing to the complainant that deciding to seek an alternative resolution is sweeping matters under the carpet. The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.

Importantly, if a complaint merits being investigated, then it should be referred for investigation.

Who can be the subject of informal resolution?

Informal resolution could either be directed at the councillor who is the subject of the complaint, both the subject member and the complainant, or at the authority more generally.

For example, it may be a request that a councillor apologise for remarks made in the heat of the moment. Or you may decide that the authority's resources are better used trying to ensure that the subject member and complainant attempt some form of mediation or reconciliation, or it may be about wider issues for your authority that are raised by the case. For example, a relatively minor alleged infringement of the Code, by a councillor who is accused of misusing their authority's IT equipment, might identify shortcomings in the authority's policy about councillors using that equipment. In such a case you might decide that the best way to deal with the allegation is to ask the authority to review the policy and make recommendations for improvement.

If you decide to seek an informal resolution when assessing a complaint, you should be clear that an investigation into that complaint will not take place provided you are satisfied that the party at whom the resolution is directed has acted in good faith in seeking to comply with it.

Who should you inform if seeking informal resolution?

If you believe a complaint can be dealt with through informal resolution you should consult with the Independent Person and you should inform the subject member and the complainant of your intention and give them the opportunity to comment before you make your final decision. However, you should simply be trying to assess how successful the resolution might be rather than giving them a veto. For example, a complainant may not be happy at receiving an apology as they

may expect the matter to be fully investigated but you may nevertheless decide that an apology is reasonable and best use of resources in the circumstances.

When informal resolution has been completed you should notify:

- the subject member;
- the complainant;
- the relevant Independent Person;
- the relevant town or parish council if the subject member is a town or parish councillor.

In addition, you should report back to the standards committee or similar where you have one at the next available opportunity on the outcome of your actions. This would allow the committee to take a holistic view of whether informal resolution is being used appropriately and effectively in the round but should not be seen as an opportunity to re-open the case.

What sort of actions might form an alternative resolution?

Alternative resolution can take a wide range of forms. When considering an alternative resolution, you need to think if the complaint highlights specific issues. For example, if it is against a relatively new councillor, a councillor who has taken on a new role or to do with relatively new procedures is there an issue about lack of understanding or training?

Training may be in anything you consider appropriate, such as:

- the Code of Conduct
- authority procedures and protocols
- chairing skills
- working with external bodies
- wider governance issues
- planning and licensing
- working with officers
- use of authority resources.

Where the issue is more of an inter-personal dispute it may simply be asking the subject member to apologise or to withdraw a remark. You may need to be clear that this does not necessarily mean that the councillor has been found to have breached the Code of Conduct where there has been no formal investigation. It is therefore important where you decide on this course at initial assessment that the action proposed does not imply this. You cannot require the subject member to apologise although you may take that into consideration when thinking of the next steps. Of course, in those cases where the councillor has admitted the breach and offered an acceptable apology, you may decide that no further action is necessary.

Where the allegation highlights wider procedure or cultural issues within the authority, you may wish to consider training for all councillors as a whole or mentoring of particular councillors, or work as an authority on conflict resolution.

You may also decide that the allegation highlights authority procedural failings rather than the specific fault of an individual so you may want to develop or review particular authority protocols and procedures.

Where the allegation is one of a series which in your view highlight that relationships within an authority as a whole have broken down to such an extent that it has become very difficult to conduct the business of the authority then some wider form of reconciliation may be needed rather than simply investigating a whole series of complaints which may of themselves be relatively minor but highlight a pattern of disruption or dysfunction. In such cases it may be helpful to engage an independent mediator who is experienced in group community resolution. Mediation is a formal professional process designed to reach agreed outcomes. Less formal mechanisms may also be used to work with the authority to draw up an action plan to move matters forward and again these are often best done by somebody independent.

In such cases it is particularly important that all parties should understand that a decision to seek an informal resolution without investigating the individual complaints means that no conclusion has been reached about what happened. Furthermore, no decision has been made about whether the subject member(s) failed to comply with the Code. Everyone involved should understand that the purpose of such action is not to find out whether the councillor breached the Code of Conduct but rather to address the underlying causes. This is regardless of how simple it may be to establish the facts.

Where a committee is considering an alternative resolution, it should always consult the monitoring officer. The monitoring officer may be able to advise the committee how viable the proposed resolution is, by providing information on the resources available to them. They may be able to tell the committee how much any proposed resolution might cost and whether, for example, the authority has access to the facilities or resources needed to accomplish it, such as qualified mediators.

Where the matters involve the town or parish council the principal authority cannot compel the town or parish council to meet the costs, but it may discuss with them the implications that other town and parish councils have experienced when they have failed to take action at an early stage. These have included officer and councillor resignations, community disharmony, national level publicity and reputational damage, staff grievances and settlement costs, excessive Freedom of Information Act (FoIA) and Data Subject Access requests, additional external audit inspections and fees and legal challenges and costs.

In considering such issues it is incumbent on the town or parish council to recognise there will be a need to invest in resolutions to the issues and it may be that where they are unwilling to seek to resolve the issues they face, the principal authority may take that into account when assessing future complaints.

Role of the monitoring officer

Role of the monitoring officer

When a matter has been referred for alternative resolution, you should inform the relevant parties (see above). You should take care over how the decision is conveyed. It is important that the

wording does not imply that the councillor is culpable where there has been no formal investigation. It is also important that councillors do not feel they have been found guilty without an investigation of the allegation. Above all avoid the risk that both parties could end up potentially feeling dissatisfied.

You should set a time limit by which the action must be taken and make it clear what will happen if it is not undertaken, or not undertaken to your satisfaction. If, within that time limit, you are satisfied with the outcome you should notify the relevant parties. The matter is then closed.

If you are not satisfied within the timescales, you must then notify the relevant parties of whether the matter is nevertheless now closed or whether you intend to take further action. In doing so you should consult with the relevant Independent Person.

You should report any outcomes to your standards committee.

What are the next steps if the informal resolution does not work?

In certain cases, you may decide that no further action is required. For example, if the subject member has made what you consider to be a reasonable apology or has attended the training, then there is little merit in pursuing the issue even if the complainant may remain dissatisfied. An investigation should not be viewed as something that can take place after an alternative resolution has been attempted and is simply not to the satisfaction of the complainant. There is a risk otherwise that alternative resolution will not be taken seriously, and the complainant will not cooperate if it is seen merely as a precursor to an investigation.

On the other hand, where a subject member has categorically refused to comply with the proposed resolution, has failed to cooperate or has taken action you consider inadequate then you should consider whether a formal investigation is needed, or where the resolution has been proposed during or at the end of a formal investigation, whether the matter should be referred for a hearing. Bear in mind that deliberate and continued failure to cooperate with a monitoring officer who is trying to deal with a standards issue may amount to a breach of the Model Code. In deciding on next steps, you should always bear in mind the public interest and your agreed criteria for considering whether a matter needs further investigation.

4. Investigations

Introduction and background

This guidance deals with good practice where it has been decided that an allegation that the Code of Conduct may have been breached merits a formal investigation.

The Localism Act does not specify how an investigation should be carried out or by whom but simply asks principal authorities to have arrangements in place to handle allegations that the Code may have been broken. In practice we would expect authorities to delegate the day-to-day handling of a formal investigation to their monitoring officer. Monitoring officers are at the heart of the standards framework. They promote, educate and support councillors in following the highest standards of conduct and ensuring that those standards are fully owned locally.

Principles of investigation

While an investigation under the Localism Act 2011 is not covered by the right to a fair hearing under Article 6 of the European Convention on Human Rights as the outcome of any hearing will not impact upon the rights of the councillor to carry on the role as a councillor, any investigation must nevertheless abide by the principles of natural justice (R (*Greenslade*) v *Devon County Council* 2019). That means that the councillor must know what they are accused of and be given the opportunity to comment on the allegations.

Any investigation should therefore bear in mind some key principles:

- Proportionality. That is, the investigation should strive to be proportionate to the seriousness or complexity of the matter under investigation. Where a matter is straightforward or relatively simple, for example where the facts are not in dispute, there may be no need for any formal investigation, but a report can simply be written up (see attached table). Equally not all of the steps in this guidance need be followed in every instance of a formal investigation – a judgment must be made in each case based on its complexity and contentiousness.
- Fairness. The investigation should make sure that the subject member knows what they are accused of and has an opportunity to make comments on the investigation, including on a draft report. Again, this may depend on the nature of the complaint – for example, an alleged failure to declare an interest may be largely a factual matter which needs little or no investigation rather than one that needs to involve evidence from other parties. A councillor quickly admitting to an error may not need further detail to be probed.
- Transparency. As far as is practical and having regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible – all parties should be kept up to date with progress in the case.
- Impartiality. An investigator should not approach an investigation with pre-conceived ideas and should avoid being involved where they have a conflict of interest.

Managing conflicts of interest

A first consideration when deciding how an investigation is to be handled will be to see whether any conflicts of interest arise for you. As monitoring officer, you may have taken the decision that an allegation needs a formal investigation. It would not be a conflict of interest if you yourself then undertook that investigation. You have simply decided in the first instance that there is on the face of it a case to answer but have made no judgment. An investigation is to then establish what exactly did happen and if it does in fact amount to a breach of the code. So, there is no conflict in deciding that a matter needs investigating and then carrying out that investigation yourself.

However, there may be other areas where a potential conflict of interest could arise. For example:

- If you were asked to investigate an allegation against a councillor and you had advised them on the same issue previously, regardless of whether or not they had followed your advice;
- If you have been involved in assisting the complainant in formulating their allegation (*Her Majesty's Advocate v Alexander Elliot Anderson Salmond*)

- If you were the complainant or a potential key witness to the incident. In such situations, you should delegate the investigation to somebody else (see section on delegation of investigations);
- Where you have tried unsuccessfully to resolve a complaint informally, for example where one of the parties has refused to cooperate or refused to accept an apology (see guidance on informal resolution). In such a case there may be a perception that you have already made some judgment in the matters at hand.
- If you find that you have a direct or indirect interest in an investigation, for example if a family member or friend is involved. Instead, you should notify the subject member and the complainant so that the conflict is on the record, explaining that you will not take any part in the investigation, the reason why and who will carry out the investigation in your place.

Also bear in mind that if you do the investigation personally a conflict may arise later in the process if the matter goes to a hearing, and you are asked to act as adviser to the hearing. You may therefore wish to consider at the start of an investigation whether you would want to ask someone else to carry out the investigation if you think you would be better supporting any hearing panel (see guidance on holding a hearing). We believe that you should not conduct an investigation and advise a hearing about the same case. You therefore need to consider whether it is more important to investigate the matter and delegate the role of advising a potential hearing, or to delegate the investigative role.

Delegation of investigations

Monitoring officers can delegate investigations to their deputy or to any other named individual. However, if they do, monitoring officers should maintain the function of overseeing the investigation unless they are conflicted out – see section on conflicts of interest – in which case they should make arrangements for another suitable person to oversee the investigation.

Under Section 5(1)(b) of the Local Government and Housing Act 1989, local authorities must provide you with sufficient resources to perform your duties. In many authorities, monitoring officers will be able to appoint another officer to carry out their investigation. Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities where they do not already exist formally. This is to make sure that an experienced officer is available to carry out an investigation or supervise it, should the need arise.

Authorities may also decide to outsource the investigation to another organisation or individual. This can be particularly helpful if it is a complex investigation which may absorb an individual's time or where it is politically high-profile or contentious or where there are possible conflicts of interest and it is therefore helpful to have somebody independent from the authority carrying out the investigation. You may wish to agree a decision to outsource an investigation with an Independent Person.

Where you delegate the investigation, you should record the scope of the delegation in writing and keep this on the investigation file. This is to ensure that there is no confusion concerning the role and authority of the person delegated to conduct the investigation. You should be particularly clear about who is responsible for writing the draft and final reports. You should also have agreed timelines for delivery of the report. Where it is likely that this initial timeline cannot be met, for

example because of unavailability of people for interviews or because further issues emerge, you should have a mechanism to agree and record any extension and again you may wish to consult with the Independent Person.

If you intend to advise a hearing panel should the matter go for a hearing, you should avoid being involved in the preparation of the investigation report. However, you may want to be able to reserve the right to decide when the report is of an acceptable quality to be put to the hearing and, if the recommendation from the investigator is that there is no breach of the Code you should be clear about who signs off that report and decides on no further action. We recommend that the views of the Independent Person are also sought where no further action is being taken.

You should inform the relevant parties when you delegate an investigation or make sure that the investigator has done this, so that they know who is dealing with the case and in case they need to provide the investigator with more information.

Disclosure of information

You must treat any information you receive during the course of an investigation as confidential to the investigative process until the investigation is completed unless there is a statutory requirement to disclose it, for example when there are parallel criminal investigations being undertaken. Similarly, all parties involved in the conducting of the investigation should be advised of the confidential nature of the proceedings.

Starting an investigation

When you decide to start a formal investigation or receive instructions to carry out an investigation, be clear what it is you are investigating. If the initial complaint had made several different allegations be clear whether you are investigating them all or only part of the allegations. You should also be clear which parts of the Code you are investigating against although you may decide to include other or different provisions during the investigation as it develops.

Having established the scope of the investigation you should inform:

- the subject member;
- the complainant;
- the relevant Independent Person and
- the relevant town or parish council if the subject member is a town or parish councillor.

We would suggest that the notice sent to the town or parish council is sent to the parish clerk, unless sending it to the chair of the council is more appropriate because of the parish clerk's involvement in the complaint (or deputy chair if the chair is the subject member). You may wish to set out what action you consider the town or parish council should take (if any) with regards the complaint and requirements related to confidentiality given that town or parish council standing orders may require the clerk to report the complaint to the council.

You should explain to all parties what it is you are investigating and what will happen next. You should also inform the subject member that they have the right to seek the views of the Independent Person and be represented at any interviews with the investigator.

Conducting the investigation

You must always be aware of your obligations under the Data Protection Act 2018, UK General Data Protection Regulations the Human Rights Act 1998 and other relevant legislation, when carrying out an investigation.

When conducting an investigation, you should be able to make inquiries of any person you think necessary. However, there is no obligation for them to respond. If you have difficulties obtaining a response, or a person refuses to cooperate with the investigation you should not let this delay the investigation but make sure that is clear in any report you write.

By law, a monitoring officer can require their authority to provide them with any advice or assistance they need to help them with their duties. However, you cannot require a parish or town council to meet the costs of any investigation into a parish or town councillor or any costs incurred by the parish or town council in providing advice and assistance with the investigation.

Evidence of new breaches

During the course of an investigation, you may uncover evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to you. Your powers as an investigator relate only to the allegation that you have been given. While that means you may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, you may also uncover evidence of a possible breach that does not directly relate to the allegation you are investigating. If this happens, you should tell the person you obtained the information from that you cannot investigate the possible breach as part of your existing investigation. You should tell them that they may wish to make a separate complaint to the authority and if the authority considers it needs further action it could be subsequently added to your investigation or dealt with as a separate matter.

Alternatively, if the matters are serious issues in your view, you may wish to refer the matters to the authority yourself as a new complaint for them to make an initial assessment on through their scheme of delegation. If you hold that delegation (for example as monitoring officer) you may wish to ask someone else to take a view on whether the investigation should be extended.

Referring cases back to the authority

During the course of an investigation, it may be necessary to reappraise if an investigation remains the right course of action, for example, if:

- You believe that evidence is uncovered suggesting a case is less serious than may have seemed apparent to the authority originally and that a different decision might therefore have been made about whether to investigate it or not;

- You conclude after examining the matter in detail that in fact the matters under investigation were not done by the subject member in their role as a councillor or as a representative of the authority but rather in a private capacity;
- You have uncovered something which is potentially more serious and the authority may want to consider referring it to the police, for example;
- The subject member has died, is seriously ill or has resigned from the authority and you are of the opinion that it is no longer appropriate to continue with the investigation;
- The subject member has indicated that they wish to make a formal apology which you consider should draw a line under the matter.

In this context ‘seriously ill’ means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. You would be expected to establish this from a reliable independent and authoritative source other than the subject member. This would include where a councillor claims they are suffering from stress brought on by the investigation.

Ultimately it will be for the monitoring officer (or as otherwise defined in the authority’s procedures for handling complaints) to conclude whether the investigation should continue. In reaching that decision, the authority should consult with the Independent Person before deciding to defer or end the investigation.

If the matter has been deferred or ended you should notify the subject member and the complainant of the decision and provide timescales within which the matter will be dealt with if it has been deferred. This would not always be appropriate, however, particularly if the matter has been referred to the police.

Deferring an investigation

An investigation should be deferred when any of the following conditions are met:

- There are ongoing criminal proceedings or a police investigation into the councillor’s conduct;
- You cannot proceed with your investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding;
- Your investigation might prejudice another investigation or court proceeding.

An investigation may also need to be deferred:

- when there is an ongoing investigation by another regulatory body;
- because of the serious illness of a key party;
- due to the genuine unavailability of a key party.

When it is clear that there is an ongoing police, or other investigation, or related court proceedings, you should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings. It may be helpful to have an agreed Protocol with the local police about

handling overlapping cases as the police may want you to carry on your investigation in the first instance.

If at any time during the investigation you become aware of any circumstances that might require the investigation to be deferred, you should normally notify the subject member of this but again you would need to be careful where there are other proceedings ongoing. If you are not the monitoring officer, you should notify the monitoring officer and seek their consent to the deferral. You or the monitoring officer may also wish to consult with the Independent Person.

The decision to defer an investigation should be taken by the monitoring officer. If you have asked someone else to carry out the investigation, they will need to gather sufficient information from the complainant, subject member, and from the police or other organisation involved, to enable you, as the monitoring officer, to come to a decision. You may wish to seek legal advice at this stage. The reason for the decision to defer should be specifically set out in the investigation file with supporting documentation attached.

In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The investigator should highlight those areas where investigation may be possible in the investigation plan.

In some cases, it will be possible to investigate the alleged conduct in parallel with another investigation, for example where the Local Government and Social Care Ombudsman is investigating an authority's decisions and you are investigating the conduct of an individual councillor involved in making the decision. You may need to work closely with the other organisation and agree the steps that each party will take.

You should ask the police, other relevant organisation or individual in writing to keep you informed of the outcome of any police or other investigation, court proceedings or other relevant matter. You should note any important dates, for example of committal hearings, in the investigation plan review. In addition, you may wish to make further contact with the police, other body or individual to ask for an update on the matter.

A deferred investigation should be kept under regular review, in the interests of natural justice. You may wish to seek legal advice at regular intervals, for example every three months, from the date of the deferral decision about the reasonableness of continued deferral.

Once a decision is taken to begin the investigation again you should notify in writing:

- the subject member;
- the complainant;
- the relevant Independent Person; and
- the relevant town or parish council if the subject member is a town or parish councillor.

You should also review the investigation plan in light of the outcome of any police investigation or court proceedings.

Confidentiality

You should treat the information that you gather during your investigation as confidential. This will help ensure that your investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as biased and preserves the integrity of the investigation.

We recommend that you also ask the people you interview, and anyone else aware of the investigation, to maintain confidentiality. You should remind councillors of their obligations under the Code of Conduct regarding the disclosure of information that they receive in confidence.

Members of the public are not covered by the Code of Conduct. A person making an allegation about a councillor is under no responsibility to the subject member to keep that complaint confidential, but if they do decide to publish the complaint and it is untrue then the complainant may well expose themselves to an action for defamation.

When the complaint has been received by the authority, the authority is then a data controller in respect of the personal data contained within the complaint and also a body subject to the FoIA.

Were the authority to receive a subject access request (SAR) from the subject member, then the response is likely to be that the complaint will be disclosed to the subject member anyway for comment. Schedule 2 s.7 of the Data Protection Act 2018(DPA) includes an exemption from DPA rights where the function is designed to protect members of the public against dishonesty, malpractice or seriously improper conduct and the function is of a public nature. Local authority investigations are likely to fall under this scope and therefore relevant articles of the UK GDPR including subject access (article 15) do not apply.

There is of course an exemption against disclosure of third-party personal data, but the complainant can be assumed to have agreed to the processing of their own personal data. Some thought needs to be given as to whether other third-party data needs to be redacted, but sufficient information does need to be provided to the subject member to allow them to comment on the complaint.

If a request for information about the complaint was received under the FoIA from a third party, then there would be clear grounds for refusing that request during an ongoing investigation.

If you receive a request from a journalist for example, who is asking if a councillor is under investigation for a specific issue, it would be reasonable to confirm or deny the fact but explain that no further comment can be made until the investigative process is complete.

Any draft report that you issue on the outcome of the investigation should be marked as confidential. This is to preserve the integrity of any further investigation that you may need to undertake.

Timescales for an investigation

There are many factors that can affect the time it takes to complete an investigation. Nevertheless, it is important that there are realistic targets from the outset for the completion of an investigation. This allows the monitoring officer to monitor the progress of investigations and explore reasons for any delays where they have delegated the investigation. We recommend that most

investigations are carried out, and a report on the investigation completed, within a maximum of six months of the original complaint being referred for an investigation.

This will not always be possible, particularly where there is overlapping jurisdiction or you are waiting for a key piece of evidence from an external body but if it is to take longer than that, specific permission should be discussed between the monitoring officer and the Independent Person, and a note made as to the reasons why.

Refusal by the subject member or other relevant party to cooperate, for example by not making themselves available for an interview without good reason, should not be a reason for delay but should be reflected in the report. If the subject member refuses to cooperate that of itself is a potential breach of the Model Code and may be something that any decision maker in a case may want to take account of.

Draft reports

The investigator should produce a draft report. If they are not the monitoring officer, they should share the draft initially with the monitoring officer and the independent person so that they can satisfy themselves that the investigation is of an acceptable standard and met the scope of the complaint. Once the monitoring officer is satisfied, the draft report should then be sent to the relevant parties with a deadline for commenting.

Where criticism is made of a third party (for example a witness) who will not otherwise have an opportunity to comment on a draft report then a Maxwellisation process (Maxwellisation is the process by which people who may be subject to criticism in public reports can comment on those proposed criticisms before the report is published) should be followed before a draft report is completed.

You are under no obligations to accept any comments made but where you do not accept comments you should make a note explaining why. Exceptionally you may need to issue a second draft if there have been significant changes.

Completion of an investigation

On completion of an investigation, the monitoring officer may decide:

- to take no further action;
- to seek to resolve the matter informally; or
- to refer the matter to a hearing if it is part of the authority's procedures to refer the matter to a separate hearing by a panel or standards committee (see guidance on hearings).

In doing so the monitoring officer must consult with the relevant Independent Person.

In general, the investigation should be regarded as completed when the monitoring officer receives the final report and accepts that no further investigation is necessary.

Purpose of the report

The report should be treated as an explanation of all the essential elements of the case and a justification for why you have concluded there has been a breach or not. The report should cover:

- agreed facts;
- any disputed facts together with your view, if appropriate, as to which version is more likely;
- whether those facts amount to a breach of the code or not; and
- your reasons for reaching that conclusion.

Final reports

The final report should be issued by the monitoring officer and must be sent to:

- the subject member;
- the complainant;
- the relevant Independent Person;
- the relevant parish or town council of which the subject member is a councillor.

The report must make one of the following findings on the balance of probabilities:

- that there have been one or more failures to comply with the Code of Conduct;
- that there has not been a failure to comply with the Code.

If the monitoring officer considers that there has been no breach of the Code, that should usually be the end of the matter though they may want to send the report or a summary to the standards committee where you have one for information purposes only or to consider wider lessons.

If the monitoring officer considers that there has been a breach of the Code, the monitoring officer will decide what action, if any, to take and notify the relevant parties. For example, they may decide to seek an informal resolution at this stage or decide that the matter is merely a technical breach which will not lead to any sanction. In doing so the monitoring officer should consult with the independent person.

If the monitoring officer decides the matter should be referred for a hearing, the report should be accompanied by information explaining that a hearing will be held and the procedure to be followed. (see guidance on holding a hearing)

Publishing a report

Where a matter has been referred to a hearing you do not need to publish the report as that will be dealt with at the Hearings Stage.

Where you have concluded that there has been no breach, that no further action is needed, or the matter has been resolved in some other way you do not need to publish the investigation report but you should report the matter to your standards committee. If the matter has generated local interest you may consider putting out a brief statement explaining the outcome and your reasoning. The report may also be disclosable under a Freedom of Information request but that would need to be

considered depending on the content of each report, the need to redact personal information and careful consideration given to the public interest test as to whether it should be disclosed or not.

Report checklist

Your report should contain the information listed below.

- a 'confidential' marking
- a 'draft' or 'final' marking
- the date
- the legislation under which the investigation is being carried out
- a summary of the complaint
- the relevant sections of the Code
- evidence
- your findings of fact
- your reasoning
- your finding as to whether there has been a failure to comply with the Code.

The level of detail required will vary for each report, depending on the complexity of information to be considered and presented. The report should, however, contain documents that you have relied on in reaching your conclusions. These may include:

- a chronology of events
- summaries of conversations, correspondence and notes of interviews with witnesses.

In addition, the covering letter you send with the draft report should explain that the report does not necessarily represent your final finding. You should also explain that you will produce a final report once you have considered any comments received on the draft report.

When you send the final report, you should also explain that the report represents your final findings and, if it is to be subject to a hearing, it will be for the panel to decide if they agree with your view or not. It is important that the report has the date of its completion on the front page. This provides clear evidence of when the time within which a hearing should be held begins.

The date of the hearing should be within three months from the date the monitoring officer, or delegated officer, completes the final report (see guidance on hearings).

There should be no appeal allowed either for the subject member or the complainant. Where a breach has been found and the matter is going to a hearing the parties will have their chance to have their say on the investigation at that stage. Where no breach has been found, no action taken or the matter otherwise resolved, that will be the end of the matter.

5. Investigation practicalities

Outsourced investigations

There are a number of reasons why you might outsource an investigation. This may be because of the complexity of the matters means that you want an experienced investigator to carry out the investigation. High-profile or politically contentious cases may require a greater degree of independence from the authority to be demonstrated. It may also be because the authority's investigatory resources internally are limited or at capacity due to other workloads.

In addition, most successful investigation report writers have experience of writing reports for lay people or councillors. They understand that their reports need to be clear enough for someone with no legal background to understand how they reached their decision. They also need to be clear enough to show what factors were taken into account when reaching that decision. You would need to consider if you have that capacity in your organisation.

Objectivity is also important. It may be difficult for an officer to consider whether a colleague was bullied or treated disrespectfully for example. There will be cases when an officer can investigate a complaint where a colleague is the complainant. However, this can only be done if you are sure that they have the necessary impartiality to conduct the investigation, with no perception of bias.

It is important, however, to stay in control of outsourced investigations. To do so you will need to do the following:

1. Agree the scope of any delegation. In particular be clear who has responsibility for preparing the investigation report and if necessary, presenting it to a hearing panel;
2. Agree the scope of the investigation. In particular be clear what allegations are being investigated and what should happen if the investigator discovers evidence of further potential breaches of the Code of Conduct;
3. Agree a firm deadline. You need to agree when the case will be completed and consider whether there will be any financial implications if the case is not completed on time;
4. Agree interim deadlines. You should agree when you will receive key pieces of work including the investigation plan, the draft report and the final report. If the investigating officer is new, then you may wish to programme in regular investigation updates;

Agree the payment structure. You may want to consider how you structure the payment for investigations. It is not unreasonable to pay per stage of work completed, and for any additional investigative stages to be agreed as and when they occur.

Start of an investigation

Draw up an investigation plan. This will help focus you on making the investigation as effective as possible. The plan should include:

- The complaint made against the subject member. You may find it necessary to seek clarification from the complainant;
- The paragraphs of the Code of Conduct that may have been breached. Please note that you do not need to accept the complainant's interpretation of what paragraphs may have been breached. It is helpful to breakdown each potential failure to comply into the component parts of each provision. For example, in considering whether a councillor has misused their position improperly to gain an advantage you may need evidence to demonstrate that:

- 1) the councillor used their position;
 - 2) the councillor used their position improperly;
 - 3) the councillor conferred or attempted to confer an advantage or disadvantage.
 - The facts which need to be determined to establish if the councillor breached the Code and to decide what the appropriate finding might be. They need to include:
 - 1) facts which would establish if the conduct happened as alleged;
 - 2) facts that would need to be proven to show that the conduct constituted a breach of the Code;
 - 3) facts which might aggravate or mitigate the alleged breach, for example, provocation or an apology.
- The evidence that you would need to determine the issues outlined in your plan. This includes who you will need to interview and why;
 - The evidence that has already been supplied by the complainant;
 - How you plan to gather any further evidence you are likely to need;
 - Any documents you are likely to need to see such as minutes of meetings or register of interest forms and you can get them from;
 - If you are not the monitoring officer and are doing the investigation under delegation, make sure you have confirmation on the extent and scope of the investigation and build in check-in points with the monitoring officer on progress;
 - How long you think it is likely to take you.

If at any stage in the investigative process there are significant changes to any of the above areas, an investigation plan review may need to be completed.

Contact the complainant and subject member to advise them of your contact details and provide them with a preliminary timescale for the investigation. You should also remind the subject member of their right to seek the views of an Independent Person.

At the end of your investigation, you should have documents which chart the approach you took to the investigation, the reasons for this approach, and when you changed your approach if appropriate. You do not need to share these documents with the parties involved in the investigation – they are for you to use as you wish. Their main function is as a planning tool, but they also provide an audit trail should your investigation be the subject of a complaint or review.

The investigation

Information requests

Documentary evidence should be sought before you conduct any interviews and at the earliest opportunity. The list in your investigation plan should form the basis of the first contact you make with the parties and other witnesses.

You may invite the subject member to provide an initial response to the allegation in writing when first making written contact with them. This gives councillors the opportunity to admit to the breach if they would like to do so, and could then save time and effort for all involved. A written response may also provide you with additional useful information before the interview stage.

Where you make a specific request for information this should be made in writing, even if the initial contact is made by phone. Explain the authority you have for asking for the documents and the broad purpose for which you need the document, for example 'an investigation into the conduct of Councillor X'. You do not need to provide the detail of the complaint against the councillor at this stage. You should also outline the confidentiality requirements that relate to the information request and set a deadline for response.

In certain cases, you may wish for a subject member or other party not to be made aware of a request for evidence. For example, if you consider that this might lead to destruction of evidence by one of the parties or to the improper collaboration of witnesses. In such circumstances it may be appropriate to arrange to meet with the witness, having given them a brief outline of your role. You can then make your request for the relevant documents during the meeting. It is important here that you explain what powers you have to obtain information. If in doubt, it may be prudent to seek legal advice on how to proceed.

If the request for information is refused it is likely to prove time consuming and legally complex to try to pursue the matter. It may be easier to see if there is another route to obtaining the same information.

Interviewing

Your goal in interviewing is to obtain the most informed, reliable evidence possible. It is not to ambush or catch out interviewees.

Order of interviews

You may have spoken the subject member initially for their initial reaction, but you will normally interview the subject member again formally at the end of the investigation, when you have gathered all your evidence, if they have not admitted to the breach at first contact. This will give you the opportunity to put that evidence to the subject member and obtain their responses to it.

Where practicable it may be best to carry out consecutive interviews on the same day if you are concerned that witnesses may collude or use information provided to them.

You may also wish to re-interview the complainant near the end of the investigation on the same timescale as you are interviewing the subject member. This may allow you to get them to agree facts. It also gives them an opportunity to comment on issues that have been raised during the

course of the investigation and provides an opportunity to present potential inconsistencies to the relevant parties for comment.

The format of the interview

It might be more appropriate to conduct face-to-face or virtual interviews than telephone interviews if:

1. the matters involved are sensitive;
2. the interviewee is vulnerable;
3. you or they will need to refer to multiple documents during the interview;
4. the interviewee wishes to have a representative or colleague present;
5. the interview is with the subject member.

It may be more appropriate to conduct a telephone interview if:

1. there are significant resource implications, either in terms of cost or time in conducting a face-to-face interview;
2. the interview does not fall into one of the categories outlined above.

If a subject member or witness insists on a face-to-face interview, then serious consideration should be given to their request. You should specifically check that there is no medical or disability-related reason for their request. If there is, then you should conduct a face-to-face interview. If there is no medical or disability-related reason, then the decision is at your discretion. If you still wish to proceed with a telephone interview despite their request, then you should outline your decision in writing on the file. This is to show that it was both proportionate and reasonable.

Do not conduct joint interviews. It is important that each witness gives their own account without having their recollection influenced by hearing another person's account. An interviewee may, however, have a friend or adviser present. If so that person should not be someone who is a witness, and they should be asked to keep the matters confidential. If an interviewee is a vulnerable person or a minor, you may wish to ensure that you are accompanied by another person.

The venue

If you are conducting a face-to-face interview, try to ensure that the venue is:

1. mutually convenient on neutral territory – this would generally include local authority offices but this may not always be appropriate;
2. in a private room where you cannot be overheard;
3. a place where the interviewee will feel comfortable and is unlikely to be seen by people whose presence may intimidate or upset them, for example, the complainant or subject member;
4. is safe for you, the investigating officer - please refer to any authority policy on lone working.

Occasionally it may be appropriate to conduct an interview at the home of the interviewee. This should generally be at the request of the interviewee, but you should only do this if you feel safe and there is no suitable alternative.

Information you should provide interviewees

You should provide the following information in writing to the interviewee:

1. Confirmation of the agreed time, date and venue or that it is a telephone or virtual interview.
2. Confirmation that the interview will be recorded, if appropriate.
3. Confirmation that the interviewee can have a legal or other representative with them, but that the representative must not be a potential witness in the investigation. Ask that they provide you with the name and status of their representative before the interview.
4. Why you are conducting the interview.
5. How the information they give you in the interview may be used.
6. The circumstances in which the information that they give you during the interview may be made public.
7. The confidentiality requirements that they are under as an interviewee.
8. Details and copies of any documents you may refer to during the interview.
9. In the case of the subject member, details and copies of any evidence you have gathered and which you may refer to in your report.

You do not have to disclose witness testimony prior to the interview, depending on the nature of that testimony and whether you want the interviewee's account prior to putting the witness's testimony to them. However, you may wish to disclose a witness's testimony during an interview once you have obtained the interviewee's own account.

You could also consider providing an outline of the areas you intend to cover at interview.

Note: if you only need to confirm one or two factual details with a local authority officer you may contact them by phone and do not need to forewarn them. However, when obtaining this information, you should:

1. orally outline all of the information you would otherwise have provided in writing as set out above;
2. check that they are happy to give it to you then, rather than at an agreed date in the future;
3. confirm the detail of information they do provide, in writing.

Special circumstances

If an interviewee has additional needs, for example a disability (seen or unseen) or language barrier you should make reasonable provisions to cater for their specific needs. If an interviewee is vulnerable or a minor, then they should always be accompanied by a third party at the interview.

Structuring an interview

Interviews should be planned in advance. You can plan your questions using the following suggested format:

1. Divide the information you require into discrete issues. For example, **Issue 1:** The planning meeting on date x; **Issue 2:** The planning meeting on date y.
2. Make a note of the evidence you have already obtained about each issue.
3. Note how you would briefly summarise the evidence to the interviewee.

Conducting the interview

All important interviews should be recorded where possible or else detailed notes taken which are agreed afterwards with the interviewee. The only exception is when the interview is likely to cover only a small number of factual matters. In this case, it may be more appropriate to resolve these factual matters in writing. Before recording an interview, you should:

1. obtain the consent of the interviewee before you start recording the interview;
2. ask them to record their consent on the record once you have started and; offer to send the interviewee a copy of the transcript or draft interview statement, whichever is applicable.

If they ask, you can send them a copy of the recording too. If you are concerned that the interviewee may share the transcript with other witnesses, you can delay sending the transcript or recording until you have completed all of your interviews.

The interviewee should not normally be allowed to make a recording of the interview. This is to prevent collusion between interviewees and any possibility of record tampering.

Interview recordings should be destroyed as soon as a transcript of the interview has been produced and agreed as accurate.

At the start of the interview

When the interviewee arrives, try and put them at ease;

1. Before you start the formal interview, inform the interviewee that there is a standard interview preamble that you must take them through. This ensures that any rapport you have established is unlikely to be lost when you take them through the legal framework of the interview;
2. Confirm that the interview will be recorded and put the recording device in a visible place on the desk;
3. With their permission start recording;
4. Ask them to confirm for the record that they consent to the recording;
5. Confirm for the record who you are, and why you are conducting the Interview;
6. State the date and time for the record;
7. Confirm that they received your letter outlining the arrangements for the interview;
8. Confirm that they read and understood your letter and ask if they have any questions about any of the information within it;

9. If the interview is with the subject member, repeat orally all of the information contained in your letter;
10. If the interviewee is at all unclear about anything, then repeat orally all of the information contained in your letter;
11. Explain that they can take a break whenever they choose;
12. Explain that you will offer them a break if the interview goes over an hour, even if they have not said that they want one;
13. Tell them how long the interview is likely to take and ask them if they have a time by which it needs to end;
14. Explain that they can ask you to rephrase a question if they don't understand it.

During the interview

1. Start the interview with the subject member with some background questions. These could include 'how long have you been a councillor, or 'what training have you had on the Code of Conduct?'
2. Do not ask multiple questions. Ask one question at a time, and do not ask another question until the interviewee has answered your first question;
3. Do not dart back and forth between different issues as you are liable to confuse yourself and the interviewee;
4. Tackle one subject issue at a time;
5. Ask open questions about information the interviewee or other witnesses have provided about the issue;
6. Drill down. In other words, ask open questions about one specific issue until you have all the information you need on it;
7. Where relevant ask the interviewee to reconcile differing accounts;
8. Ask closed questions to confirm the information you have obtained about the specific issue;
9. Move onto the next issue using the same method. Start with a broad open question about the subject, drill down for information with specific open questions. Conclude the area by asking closed questions to confirm what you have been told;
10. Do not ask leading questions, for example, 'You said this to the clerk, didn't you?';
11. Do not ask the interviewee to speculate;
12. Accurately put the evidence of other interviewees to the interviewee and ask for their response;
13. When asked, explain the relevance of your question;
14. Do not allow the interviewee's lawyer or representative to answer a question;
15. You must allow the interviewee to stop and obtain advice whenever they choose;
16. If the interviewee becomes upset or unwell you must offer them a break;
17. Never raise your voice. Only interrupt if the interviewee is being unreasonable or is not providing relevant information;
18. You should be mindful of avoiding oppressive or repetitive questioning. If an interviewee will not properly answer a question, despite significant attempts to obtain a satisfactory response, then you should move on to another point or issue;
19. Do not question the subject member about matters which fall outside the scope of the complaint;

20. If the interviewee wants a break, record the time of the break on the record and the time you resume the interview. Ask the interviewee to confirm for the record that you did not discuss anything about the case with them during the break.

Closing the interview

1. State the time the interview finished;
2. Thank the interviewee for their time and outline what will happen next;

After the interview

1. Send the interviewee a copy of the transcript;
2. State in the letter that if you do not hear from them by a specified date, you will assume the transcript is agreed;
3. If the content of the transcript is disputed, check the discrepancies against the recording;
4. If the transcript is confirmed by the recording, write to the interviewee to inform them of this. In these circumstances, if the matter is referred to a hearing, submit the transcript, the recording, the interviewee's letter outlining the dispute, and your response.

Evaluating the information after an interview

1. Review your investigation plan in light of the information gathered during the interview;
2. Review all the evidence you have gathered to determine if there are any gaps in it;
3. Take a view on all disputed relevant matters. Your own opinion on the evidence is sufficient. However, if you are unable to come to a decision, you may need to seek further information or decide that you are unable to reach a conclusion;
4. Weigh up all the evidence and decide if the alleged conduct occurred;
5. If you decide that the subject member acted as alleged, you will need to consider whether their conduct involved a failure to comply with the Code of Conduct;
6. If you decide the subject member breached the Code, consider whether you have evidence of any mitigating or aggravating circumstances. If not, you may need to seek further information.

Drafting the report

When you have concluded your investigation, you will need to write up your findings in a report which should contain the following information:

1. who the report is for;
2. who the report is by;
3. the date of the report.

Executive summary

This should include:

1. the full allegation and who it was made by;

2. the provisions of the Code of Conduct that were considered;
3. a conclusion as to whether there has been a failure to comply with the Code the finding;
4. any relevant extracts from the Code and any other legislation or protocols considered in the report.

Evidence gathered and the investigator's consideration

1. Set out all the relevant evidence you have gathered even if it does not support the conclusions you have reached;
2. State what you consider has taken place based upon your evaluation of this evidence;
3. Set out undisputed facts as facts. Do not summarise them or preface them 'he said' or 'the minutes state'. If they are undisputed just state them as fact.
4. Where there is a disputed fact, outline the different views and your conclusion on them. You need to form a conclusion based on the balance of probabilities. Also state why you have reached this conclusion. For example:
 - The clerk, Councillor Jones and Councillor Smith met at Councillor Jones's house on y date at x time;
 - At interview the clerk stated that Councillor Jones said.....
 - At interview Councillor Smith stated that Councillor Jones told the clerk...
 - At interview Councillor Jones stated that he told the clerk...
 - I have considered the following issues when deciding what Councillor Jones said to the clerk... I consider at on the balance of probabilities Councillor Jones told the clerk...because...
5. Include any mitigating or aggravating factors, such as the state of mind of those involved.
6. When you refer in the report to material in the evidence bundle, identify the document referred to.

Summary of the material facts

Summarise the facts needed to confirm the conclusions you have reached. Where there was a disputed fact, you will only need to include the conclusion you came to.

If the subject member has made additional submissions which you do not consider relevant to the case outline why you do not deem information or opinions submitted by the subject member to be relevant.

Reasoning as to whether there has been a failure to comply with the Code of Conduct

1. Make each alleged breach in turn.
2. Outline which part of the Code of Conduct you are considering. Explain the test you are applying when determining if there has been a failure to comply with the Code.
3. Explain in detail, giving reasons, why you do or do not consider that the conduct constitutes a breach of the Code.

4. Do not introduce any new facts or opinions. You must only refer to evidence or opinions that have been outlined earlier in the report.

Make sure your explanation of the test you are applying, and the reasons for your conclusions, are detailed and clear enough to understand for a lay person with no legal background.

Finding

You should make a finding about each alleged breach of the Code:

1. Outline in detail the reason for your decision
2. Refer to aggravating or mitigating facts, which must be outlined in the facts section earlier in the report.

Schedule

Your report should include any documents taken into account:

1. Exhibit all the evidence upon which you have relied when reaching your conclusion;
2. In complex cases it may be appropriate to provide a chronology;
3. Provide a list of unused material if appropriate.

Issuing a draft report

You should send a draft report, sending a copy to the subject member and the complainant and inviting their comments by a specified date. If you have carried out an investigation on behalf of the monitoring officer, you should first of all make sure they are happy that the draft is to an acceptable standard.

The draft should not be sent to other witnesses or parties interviewed, but you should seek confirmation of their evidence from them before issuing the report.

Ensure that the draft report is clearly marked as 'Draft' and 'Confidential' (though it can be discussed with a legal representative) and make clear that the report may be subject to change and does not represent your final conclusion.

If you have found the subject member in breach, make sure that the evidence that you have relied upon when reaching this conclusion is clearly marked in the report.

You must consider whether any of the information in the draft report is sensitive personal information that should not go into the public domain, for example, medical reports details or personal contact details. Information of this nature should be edited from the draft and final report unless it is essential to the reasoning.

Comments on the draft

Responses to your draft may reveal the need for further investigation, or they may add nothing of relevance. Occasionally changes may be significant enough for you to consider issuing a second draft.

Once you have considered whether the responses add anything of substance to the investigation, you will be able to make your final conclusions and recommendations.

Where comments on the draft are critical of the investigation or the investigator, you may need to consider how to respond to the complaints made. You should not let such criticisms prevent a draft report being finalised, however, unless this is unavoidable. In particular, the investigation process, including writing the report, should not be suspended while a complaint about the investigation is dealt with. Complaints about the conduct of investigators should be dealt with in the same way as other service complaints.

You should keep a written record of your consideration of any comments received on the draft. It is best practice to provide a written response to the party explaining your position or referring them to the relevant paragraph of the report. This can be done when they are sent the final report. You should avoid getting drawn into lengthy correspondence with the subject member or other interested parties where they disagree with the draft. You should confine comments to matters of fact rather than personal opinions as to how the investigation was done or the opinion you have reached. However, you will need to show that you took all reasonable steps to address concerns.

If you receive further comments after the final report has been issued you should explain that the investigation is now closed and refer them to the person who is dealing with any hearing if appropriate.

The final report

You must state that the report represents your final finding. If you have found the subject member in breach you should make sure the reasoning for that conclusion and any supporting evidence is clear. You must consider whether any of the information in the report or evidence bundle is confidential information that should not go into the public domain, for example, medical details, personal contact details or signatures. All information of this nature should be edited from the final report unless it is essential to the reasoning.

You should send the final report to the monitoring officer if you are not the monitoring officer who will then issue the report. If you are the monitoring officer, you must send your report to:

1. The subject member
2. The Independent Person

A copy may also be made available to the complainant and others as you think appropriate.

The monitoring officer must decide whether:

1. There has been no breach and therefore no further action will be taken;
2. There have been one or more breaches, but no further action is needed;

3. There have been one or more breaches, but the matters should be resolved in a way other than by a hearing; or
4. That the matters be referred to a hearing.

This should be made clear in the letter accompanying the report and if the monitoring officer decides that the matter should be referred to a hearing panel, they should arrange for that to happen as soon as possible (see separate section on hearings). The letter should also make clear what if any aspects of the report are confidential but that it can be discussed with a legal representative. If the matter is being referred to a hearing it should be made clear that the whole report remains confidential until the time of the Hearing to avoid prejudicing any considerations.

Confidentiality during the investigation

While it is important during the course of an investigation to preserve confidentiality so as not to compromise the integrity of the investigation, in practice in some circumstances, maintaining the confidentiality of an investigation can be difficult. However, it is important that you take all reasonable steps to maintain the confidentiality of your investigation, as failure to do so may compromise the investigation. To help maintain confidentiality:

1. Mark all of your letters, transcripts and reports as confidential;
2. Outline why you have marked it confidential but clearly inform subject members in writing that they can appoint a solicitor, or other person, to act as their representative. You must also clearly inform them that they can disclose any relevant document to this representative.
3. You should state that their representative should not be someone who may be involved in the investigation;
4. It is important that you make it clear to all parties that they should make any approach to witnesses in writing. This is to avoid confusion that might arise about the investigative process;
5. When arranging interviews ask interviewees to identify the name of any person who is accompanying them to the interview. Also ask them to state what their relationship is to the interviewee. You should explicitly state, in writing, that they should not be accompanied by anyone who may be called as a witness in the investigation;
6. If you think it is possible that witnesses may discuss their testimonies with each other, you should not send the transcripts of any interviews until all of the interviews have been concluded. This may mean that you send interview transcripts out with the draft report;
7. Where you are interviewing a number of people who have close relationships with one another, it may be prudent to interview them immediately after each other. This reduces any opportunity for collaboration.

If confidentiality is breached you should write to the party reminding them of the confidentiality requirements and, if they are a councillor, of their duties under the Model Code of Conduct. If you have evidence that information was disclosed to a party prior to their interview, you can take this into account when evaluating the reliability of the witness's evidence. If the disclosure was made by a councillor, you can consider making a formal complaint about their conduct.

6. The hearings process

Once a formal investigation has taken place, the monitoring officer may refer the matter to a hearing.

There is no prescription in the legislation that says a matter has to go to a hearing or how that hearing may be conducted. Whatever approach you decide to take it must follow the rules of natural justice and comply with the obligations to ensure a fair hearing under Article 6 of the Human Rights Act. In line with the principle of proportionality the approach you take may depend upon the seriousness of the issue. For example, if you are satisfied that the investigation has allowed all sides to have their say the panel may simply review the report without further reference to the parties.

This guidance is written however on the presumption that a hearings panel of some form, consisting of elected councillors, will be convened.

The legislation stipulates that, where it is a town or parish council case, the matter is dealt with by the principal authority.

Throughout this guidance we will refer to panel, but by that we mean a committee or a sub-committee which the local authority (or a committee, such as an Audit or Standards Committee) has delegated responsibility to determine the outcome of certain complaints that individual councillors have breached the Code of Conduct.

Convening a hearing

At the end of the investigation, a hearing may be called where the investigator has concluded that there has been a breach of the Code of Conduct and the monitoring officer has concluded that the matter cannot otherwise be resolved informally (see guidance on informal resolution).

For reasons of fairness and proportionality a hearing should wherever possible take place within three months of the date on which the investigator's report was completed. Where that is not possible, for example because the matter is awaiting the outcome of other matters being dealt with by outside bodies or other investigations into the subject member, the monitoring officer should notify the relevant parties of the reason for the delay and provide an estimated timescale.

However, the hearing should not take place sooner than 14 days after the investigation report has been issued unless the subject member agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call for example (see section on the pre-hearing process below)

Once a date has been set for a Hearing the monitoring officer should notify:

- the subject member;
- the investigator;
- the relevant Independent Person;
- the complainant if appropriate;
- the clerk of any relevant town or parish council.

They should also outline the hearing procedure; the subject member's rights and they should additionally ask for a written response from the subject member within a set time. This is to find out whether the subject member:

- wants to be represented at the hearing
- disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements
- wants to give evidence to the hearing, either verbally or in writing
- wants to call relevant witnesses to give evidence to the standards committee
- wants to request any part of the hearing to be held in private
- wants to request any part of the investigation report or other relevant documents to be withheld from the public.

The investigator should also be asked if they wish to call any witnesses.

If the subject member is unable to make the specified date the panel may arrange for the hearing to be held on a different date, provided that they are satisfied that the subject member has given an acceptable reason. Where the subject member does not give an acceptable reason or does not reply within a specified time, the panel should proceed with the date and may consider the report in the subject member's absence if the subject member does not go to the hearing. The subject member should not be able to evade having the case heard simply by refusing to cooperate and the Model Code makes failure to cooperate a potential breach. However, the panel should make clear at the start of the hearing that they have considered whether they can proceed in the absence of the subject member and should record their reasons.

If one or more witnesses are unavailable on the given date the monitoring officer, in consultation with the chair of the panel, should decide how material they would be to the hearing and whether another date needs to be looked for. Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect although it may be that their views were already sought as part of the investigation so the panel would need to evaluate how they could proceed without them. Witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Except in the most complicated cases, the panel should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. When scheduling hearings, you should bear in mind that late- night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to repetition or important matters being forgotten.

Role of the monitoring officer

It is important that the panel receives high quality, independent advice. For this reason, a monitoring officer should be the main adviser to the standards committee, unless they have an interest in the matter that would prevent them from performing this role independently. This may be because they have carried out the investigation or have another conflict (see guide on investigations). If this situation arises, a monitoring officer should arrange for another appropriately qualified officer to advise the standards committee.

The monitoring officer or other legal adviser's role in advising the panel is to:

- make sure that members of the standards committee understand their powers and procedures
- make sure that the procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- make sure that the subject member understands the procedures the panel will follow
- provide advice to the panel during the hearing and their deliberations.
- help the panel produce a written decision and a summary of that decision.

Monitoring officers play an important role in advising their councillors on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the panel at a later stage.

Monitoring officers will need to be aware of the potential conflicts involved in investigating a matter, advising the panel and advising councillors (see also guidance on investigations).

However, conflicts of interest are not likely to arise simply from informal discussions between councillors and monitoring officers.

You may wish to consider options for reducing the likelihood of such conflicts, including:

- arranging for another officer to advise councillors
- continuing to advise councillors, while identifying possible scenarios that may lead to future conflicts.

You should also ensure that if your advice could be relevant to an investigation, you have another appropriately experienced officer who is prepared to support the panel in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the panel.

Composition of the panel

The panel should be drawn from the main body of the standards committee. If the panel includes independent representatives or parish representatives, they do not have voting rights by law.

You will need to be clear whether political proportionality applies to the panel or whether it has been waived by the local authority.

All panel members should have undergone suitable training.

Holding a pre-hearing

As soon as a date has been set for a hearing the panel should hold a private pre-hearing. This could be done in writing or just between the monitoring officer and the Committee chair for expediency. The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself. The pre-hearing should also decide who will chair the panel.

At the pre-hearing the panel should:

- Decide whether any of the findings of fact in the investigation report are in dispute and, if so, how relevant they are likely to be at the hearing. For example, if the dispute is about the time of a particular conversation but that time is not relevant to whether the Code has been breached or not, there would be little point focussing on that. On the other hand, if that alleged discrepancy were material the panel needs to satisfy itself how it would resolve that difference at the hearing.
- Consider any additional evidence it considers is required at the hearing.
- Identify any witnesses it thinks it would want to hear from.
- Decide if witnesses which the subject member or investigator may want to call are relevant bearing in mind the nature of the issue and the need for proportionality. For example, if an incident has occurred at full council there would be no need to call every member as a witness but equally the panel may feel it needs to hear from a couple of witnesses representing different sides. Similarly, if the subject member decides to call a number of character witnesses the panel should take a view as to how relevant that is and how many would suffice.
- Consider whether there are any parts of the hearing that are likely to be held in private or whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain ‘exempt’ material (see section on confidentiality below) though the final decision will rest with the panel on the day. The presumption should be to hold a public hearing unless there is specific exempt or confidential information as defined by Part VA of the Local Government Act 1972 so identifying that at the pre-hearing will have some bearing on publication of any relevant papers.
- Identify any potential conflicts of interest, for example any close associations with the people involved or potential witnesses. The monitoring officer will advise if any conflicts mean that a councillor should stand down from the panel.

It is important that at the pre-hearing panel members do not debate the merits of the case.

Note that this pre-hearing would not of itself be a formal meeting so would not be open and often these matters can be dealt with through correspondence. Once the pre-hearing has been held the monitoring officer should write to everyone involved in the complaint at least two weeks before the hearing. This should confirm the date, time and place for the hearing, note whether the subject member or investigator will be represented at the hearing. It should also list those witnesses, if any, who will be asked to give evidence and outline the proposed procedure for the hearing.

The hearing

A hearing is like any other committee or sub-committee of the authority and as such must follow the rules that apply to committees. This means that it must reflect the political proportionality of the local authority as a whole unless the authority has waived proportionality and that only elected members of the authority are entitled to vote at the Hearing. The rules around access to information also apply as they do to other committees – that is the hearing will be in public unless there are lawful reasons for all or part of it to be heard as exempt or confidential matters.

Panel members should bear in mind that it is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The panel should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and councillors, have confidence in its procedures and findings. Decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the local authority and the public. For the subject member, an adverse decision by the committee can result in significant reputational damage.

Representatives

The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. This should have been agreed at the pre-hearing and if the panel has any concern about the person chosen to represent the subject member, they should have made that clear beforehand. The panel does, however, have the right to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Evidence

The panel, through its chair, controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

In many cases, the panel may not need to consider any evidence other than the investigation report and any other supporting documents. However, the panel may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

The panel can allow witnesses to be questioned and cross-examined by the subject member, the investigator or their representatives. Alternatively, the panel can ask that these questions be directed through the chair. The panel can also question witnesses directly and the Independent Person should also be asked if they wish to ask any questions. It is not a legal requirement that the Independent Person attend the hearing, but it is best practice and the authority must have regard to their views when reaching a decision. If the Independent Person does not attend therefore, there must be an agreed mechanism for receiving their views.

If the panel believes, however, that questions are irrelevant or oppressive then the chair should stop that particular line of questioning.

Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. However, the panel has the right to govern its own procedures as long as it acts fairly. For this reason, the panel may limit the number of witnesses if the number is unreasonable. This should have been agreed at the pre-hearing.

Making a finding

Once the panel has heard all the relevant evidence it should suspend the hearing and retire in private to consider its finding.

Before retiring the chair should invite the Independent Person to give their views to the panel which the local authority must have regard to. These views should be given in the open session so that all sides can have a chance to challenge them as necessary. If the Independent Person retires with the panel, they should not take part in any decision making as they are not part of the formal decision-making process. In addition, they should ensure that any views they give to the panel are also made publicly to the meeting.

Any officer who retires with the panel is there to advise on matters of procedure and law. Any advice given, however, must then be conveyed back publicly to the meeting.

If the panel, after retiring, decides that it needs to reconsider certain matters it is able of reconvening to ask further questions.

Once the panel has reached its decision it should reconvene to inform the subject member. Where a breach has been found, it should then invite representations as to any aggravating or mitigating factors (see below) before retiring again to consider an appropriate sanction.

It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the panel will normally also draft minutes of the meeting.

The panel should give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within one week of the hearing.

The relevant parties are:

- the subject member
- the complainant
- the relevant Independent Person
- any parish or town councils concerned.

Where appropriate the subject member's political group may also be informed of the decision if the sanction requires group action (see below) and should also be sent to the next full council meeting.

Sanctions

There is no definitive list of possible sanctions (*The Government's response to the Committee on Standard in public life 2019 is awaited*). If the panel finds that a subject member has failed to follow the Code of Conduct and that they should be sanctioned, it needs to be clear which sanctions it has the power to impose and which matters are reserved to council or need to be referred to a relevant political group.

Typical sanctions may include one or a combination of the following:

- report its findings in respect of the subject member's conduct to council (or the relevant parish council)
- issue (or recommend to the parish council to issue) a formal censure
- recommend to the subject member's group leader (or in the case of un-grouped councillors, recommend to council) that they be removed from any or all committees or sub-committees of the authority (or recommend such action to the parish council)
- recommend to the leader of the authority that the subject member be removed from positions of responsibility
- instruct the monitoring officer to (or recommend that the parish council) arrange training for the subject member
- recommend to council (or recommend to the parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish council);
- recommend to council (or recommend to the parish council) that it withdraws facilities provided to the subject member by the authority for a specified period, such as a computer, website and/or email and internet access; or
- recommend to council (or recommend that the parish council) that it excludes the subject member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings and/or restricts contact with officers to named officers only
- if relevant recommend to council that the subject member be removed from their role as leader of the authority
- if relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.

Note that where the subject member is a parish or town councillor, the matter is referred back to their council to say that a breach of the Code has been found and with a recommended sanction. The town or parish council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the monitoring officer. The panel should also ask the parish or town council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

Note that under the Model Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.

When deciding on a sanction, the panel should ensure that it is reasonable, proportionate and relevant to the subject member's behaviour. Before deciding what sanction to issue, the panel should consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention?
- Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result or potential result of failing to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct or failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction impact on the subject member's ability to carry out their role?

Sanctions involving restricting access to an authority's premises or equipment or contact with officers should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

Mitigating factors may include:

- an honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice;
- a councillor's previous record of good service;
- substantiated evidence that the councillor's actions have been affected by ill-health;
- recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the councillor;
- compliance with the Code since the events giving rise to the complaint.

Aggravating factors may include:

- dishonesty or breaches of trust;
- trying to gain an advantage or disadvantage for themselves or others;
- bullying;
- continuing to deny the facts despite clear contrary evidence;
- seeking unfairly to blame other people;
- failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code;
- persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

Publicising the findings

The panel should arrange for a decision notice to be published on the website of any authorities concerned, and anywhere else the panel considers appropriate.

If the panel finds that the subject member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.

If the panel finds that the subject member failed to follow the Code but that no action is needed, the public summary should:

- say that the councillor failed to follow the Code, but that no action needs to be taken;
- outline what happened;
- give reasons for the panel's decision not to take any action.

If the panel finds that a councillor failed to follow the Code and it imposed a sanction, the public summary should:

- say that the councillor failed to follow the Code;
- outline what happened;
- explain what sanction has been imposed;
- give reasons for the decision made by the panel.

The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.

Appeals

Given that the framework and sanctions are meant to be light-touch and proportionate, there should be no right of appeal against a decision on a Code of Conduct complaint.

APPENDIX 3

Herefordshire Council

LGA Model Councillor Code of Conduct – Adopted May 2022

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

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 disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

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.

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.

Honesty

Holders of public office should be truthful.

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.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. ~~Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it~~

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. ~~Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it~~

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

<p>You must register as an Other Registerable Interest :</p> <ul style="list-style-type: none"> a) any unpaid directorships b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any body <ul style="list-style-type: none"> (i) exercising functions of a public nature (ii) directed to charitable purposes or <u>(iii)</u> one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union <u>(iv)</u> is not open to the public without formal membership.
--

Table – 5.2.17

Where a member has a Disclosable Pecuniary Interest, Other Registrable Interest or Non-Registrable interest as detailed above the following applies:

What is the interest	Do I have to complete the form and register?	Do I have to declare this interest?	When do I disclose this interest?	Can I participate?	Can I vote?	Do I have to leave the room?
Disclosable Pecuniary Interest	Yes Within 28 days of: <ul style="list-style-type: none"> • becoming a member or re-appointment to office • re-appointment to office • Disclosing at a meeting a previously undisclosed interest • Becoming aware of any change or new interest 	Yes	As soon as you are aware that you have an interest	No	No	Yes
Other Registrable Interest	Yes Within 28 days of: <ul style="list-style-type: none"> • becoming a member or re-appointment to office • re-appointment to office • Disclosing at a meeting a previously undisclosed interest 	Yes	As soon as you are aware that you have an interest	Yes if members of the public are able to speak at the meeting	No	Yes

	<ul style="list-style-type: none"> Becoming aware of any change or new interest 					
Disclosure of Non-Registrable Interests	No	Yes	At the meeting - As soon as you are aware that you have an interest	Yes if members of the public are able to speak at the meeting	No	No



Title of report: Auditor's Annual Report 2020/21

Meeting: Audit and governance committee briefing

Meeting date: Tuesday 10 May 2022

Report by: Director of resources and assurance

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To present to the audit and governance committee the auditor's draft Annual Report 2020-21 for information and discussion.

Recommendation(s)

That:

- a) **The committee reviews the auditor's report, notes its findings and recommendations and considers the management responses.**

Alternative options

1. There are no alternative recommendations. The auditor's Annual Report forms part of the statutory external audit of the Council.

Key considerations

2. The external auditor's draft Annual Report for 2020/21 is attached at Appendix 1. Under the National Audit Office Code of Audit Practice, the external auditor is required

to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in the use of its resources.

3. As well as reporting on overall arrangements, the external auditor will consider whether there were any significant risks or weaknesses in the arrangements in place. The report includes the external auditor's findings together with their recommendations as to how any weaknesses identified can be addressed.
4. Officers are asked to provide management responses to the findings and recommendations and the responses are also included at Appendix 1.
5. The report has been finalised with officers.

Community impact

6. 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

7. 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.
8. Whilst this is a report for information 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

9. 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.
10. 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. We do not believe that this report will have an impact on our equality duty.

Resource implications

11. There are no specific resource implications from the report itself. However, there may be resource implications from implementing specific recommendations. If these cannot be contained within approved budgets, then a specific decision will be presented for approval.

Legal implications

12. There are no specific legal implications arising from this report itself.

Risk management

13. Specific risks are included within the external auditor's report.

Consultees

14. None

Appendices

Appendix 1 Auditor's Annual Audit Report on Herefordshire Council 2020-21

Background papers

None identified.

Auditor's Annual Report on Herefordshire Council

129 2020-21

FINAL - 11 April 2022



Contents



We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.



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A – The responsibilities of the Council	
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C – An explanatory note on recommendations	
D – Use of formal auditor's powers	

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Executive summary



Value for money arrangements and key recommendations

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. The auditor is no longer required to give a binary qualified / unqualified VFM conclusion. Instead, auditors report in more detail on the overall arrangements, as well as key recommendations on any significant weaknesses in the Council's arrangements identified during the audit.

Auditors are required to report their commentary on the Council's arrangements under specified criteria. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Our work has identified three significant weaknesses in the Council's arrangements and three corresponding key recommendations which are set out on pages 7, 8 and 9.

The significant weaknesses identified on page 4 and improvement recommendations listed throughout this report are based on the arrangements in place at the Council during 2020/21 and an element of the progress made in 2021/22.

Officers recognise and are committed to delivering improvements across the Council and in those areas where significant weaknesses have been identified and the recommendations throughout this report. Officers have drawn our attention to the following areas where changes and service improvements are being made in 2021/22. We will consider the following in our value for money review for the financial year 2021/22:

- the re-organisation of senior management to improve and develop the corporate approach 'one Council'
- additional investment in the 2022/23 budget to enhance its enabling services
- new flexible working (flexible futures) arrangements for staff supported by investment in digital infrastructure
- agreement of its Covid-19 recovery plan with the approval of £6.144m to deliver the immediate action to enable economic recovery
- increased focus on the economy with commitment to deliver the 2050 Big Plan, the City Centre Strategy and review the Local Plan in conjunction with its partners

- completion of the enterprise zone cyber quarter – Skylon Park
- the formation of Herefordshire's citizens climate assembly to discuss and inform decisions relating to climate change
- review of the Council's waste strategy
- dealing with the phosphate pollution impact on the local plan objectives
- the award of £22.m to invest in Hereford's investment plan
- supporting NMITE in the development of the new university
- market towns investment plans
- the review and update of the County Plan delivery priorities
- continued review and delivery of the transport strategy
- significant investment in Children's services to ensure improvement and transformation as required by the Department for Education
- the expansion of Hoople Limited to include a 'Home First' service.

Executive summary



Value for money arrangements and key recommendations

The significant weaknesses identified below and improvement recommendations listed throughout this report are based on the arrangements in place at the Council during 2020/21.

Children's Social Care Services

1. **We consider the Council's failure to meet the statutory needs of children in its care to be a significant weakness in arrangements. This is evident from the findings in the court judgment, the Department for Education non-statutory notice and the lack of progress made since Ofsted inspected in 2018 and the focused visit following the court judgment.**

The court judgment issued by Mr Justice Keehan in March 2021 identified how the Council had failed the children in its care, as well as the foster parents and birth parents. Subsequent to this judgment the Council received a non-statutory improvement notice from the Department for Education and an Ofsted focused visit identified that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since June 2018.

Contract management

2. **The Council's lack of effective contract management arrangements for its public realm and facilities management contracts, to enable it to hold its contractor to account, is a significant weakness in arrangements.**

A range of reviews commissioned by the Council has identified the Council's inability to effectively manage its public realm and facilities management contract with Balfour Beatty Living Places Limited. These concerns began to emerge in January 2020 and were reported to Cabinet in September 2020. Improvements have been made in 2021/22 and an improvement plan was agreed in March 2022. However, these improvements did not have an impact on arrangements in place in 2020/21.

3. **We consider the Council's contract appointment and management arrangements include a significant weakness in arrangements, as it did not establish the validity of contracting and continuing to trade with a company which was dormant or otherwise non-trading from a formal perspective.**

The Council identified in January 2021 that Balfour Beatty Living Places Limited (BBLP) was a dormant company as evident at Companies House. This information was not reported to members and no action or legal advice was obtained by the Council to understand the implications of contracting with a dormant company until March 2022, following audit queries, as part of our value for money review. The Council's current legal advice has highlighted concerns over the validity of this arrangement and the increased risk to which the Council is exposed. The contracting arrangement is now being resolved by officers and, as such, the final outcome is unknown.

Executive summary

At our initial planning stage and within our audit plan we identified risks of significant weakness within each of the following criteria:

- Financial sustainability
- Governance
- Improving economy, efficiency and effectiveness.

Criteria	Risk assessment	Conclusion
Improving economy, efficiency and effectiveness	Yes - risks of significant weakness identified	Three significant weaknesses in arrangements identified and five improvement recommendations made
Governance	Yes - risks of significant weakness identified	No significant weaknesses in arrangements identified and two improvement recommendations made
Financial sustainability	Yes - risks of significant weakness identified	No significant weaknesses in arrangements identified, but seven improvement recommendations made

Further detail on the risks identified at our planning stage can be found at appendix B.

	No significant weaknesses in arrangements identified or improvement recommendations made.
	No significant weaknesses in arrangements identified, but improvement recommendations made.
	Significant weaknesses in arrangements identified and improvement recommendations made.



Improving economy, efficiency and effectiveness

We are not satisfied that the Council has appropriate arrangements in place to deliver quality services within its Children's Social Care Services and to effectively contract manage its public realm contract and have identified three significant weaknesses as set out on the previous page.

We have also identified five improvement records in relation to benchmarking, procurement and commissioning, contract procedures, partnerships and performance management of its subsidiary Hoople Limited. Further details can be found on pages 11 to 21.



Governance

Whilst we have not identified any significant weaknesses within the governance section we recognise that failures in the leadership and management of children's services have had an impact on the Children's Social Care Services and the Council's ability to effectively meet its statutory duties.

We have identified two improvement recommendations. These are in relation to maintaining formal records for all settlement agreements and ensuring all corporate risks on the corporate risk register are linked to the relevant corporate objective.

Our findings are set out in further detail on pages 22 to 26.



Financial sustainability

Overall we are satisfied that the Council had appropriate arrangements in place to manage the risks it faced in respect of financial resilience. We have not identified any significant risks of material weakness but have identified opportunities for improvement.

These reflect the importance of strengthening its medium term financial planning to ensure its Medium Term Financial Strategy is extended beyond one year and if the level of reserves is sufficient to meet possible pressures, improving the reporting of its capital programme including slippage, consider reporting its performance against its Dedicated Schools Grant and also the importance of developing more comprehensive and integrated workforce plans.

Our findings are set out in further detail on pages 27 to 38.

Executive summary



Opinion on the financial statements

Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion:

- the group and Council's financial statements give a true and fair view of the financial position of the group and Council and the group and Council's income and expenditure for the year; and
- have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014.

We are also required to report whether other information published together with the audited financial statements (including the Annual Governance Statement (AGS) and Narrative Report, is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.

Our audit work was completed remotely during July to December 2021. Full details of our findings from the audit are detailed in our Audit Findings Report dated 24 November 2021.

We provided an unqualified audit opinion on 10 December 2021.



Key recommendations



1. Key Recommendation

The Council should continue to work with the Department for Education to improve its Children's Social Care Services.

Why/impact

Failure to improve the Council's Social Care Services could result in further action being taken by the Department for Education.

Summary findings

In March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care. This judgment identified how the Council had failed the children in its care, as well as the foster parents and birth parents. Subsequent to this judgment the Council received a non-statutory improvement notice from the Department of Education (DfE).

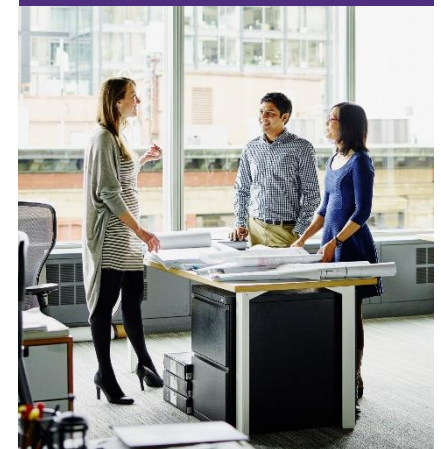
Also the Ofsted focused visit stated that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since the Ofsted inspection in June 2018.

Further detail is provided on pages 11 and 12.

Management Comments

The Council takes very seriously the concerns about children's services and transforming children's services is the Council's number one priority. An additional £5.2m was invested in the service in 2021/22 to support improvement activity and the Council endorsed an Improvement Plan in October 2021. An Improvement Board, chaired by the DfE Improvements Advisor has been in place since May 2021 and we were the recipients of a £1.7m grant from the DfE in December 2021. A new and permanent Director of Children's Services was appointed in November 2021 and is leading on the delivery of our three year transformation programme. Further additional and significant financial investment in the service is expected in 2022/23. In March 2022 Cabinet approved a further investment of £11.4m for 2022/23.

The range of recommendations that external auditors can make is explained in Appendix C.



Key recommendations



2. Key Recommendation

The Council should progress the actions within its major contracts improvement plan, and to ensure delivery we recommend that performance against this plan should be reported to Cabinet.

Why/impact

Active monitoring by members should ensure arrangements improve.

Summary findings

In January 2020 a major capital contract review was undertaken by the Interim Capital Projects Director. This review considered the management arrangements of the Council's public realm and facilities management contracts held by Balfour Beatty Living Places Limited. The findings of this review were reported to Cabinet in September 2020 and included concerns over performance monitoring, financial and contract compliance monitoring.

Following this review, work was undertaken internally to review the Herefordshire City Centre Transport Package (HCCTP). This review concluded in January 2021, but was not reported to Cabinet until July 2021. Concerns were raised over the management of the contract and a range of recommendations were agreed by Cabinet in July 2021.

Cabinet agreed the establishment of the Major Contracts Improvement Board, acknowledged that there was insufficient budget to complete the remaining elements of the programme and further confirmed the earlier concerns that were reported in the previous review of the public realm and facilities management contract.

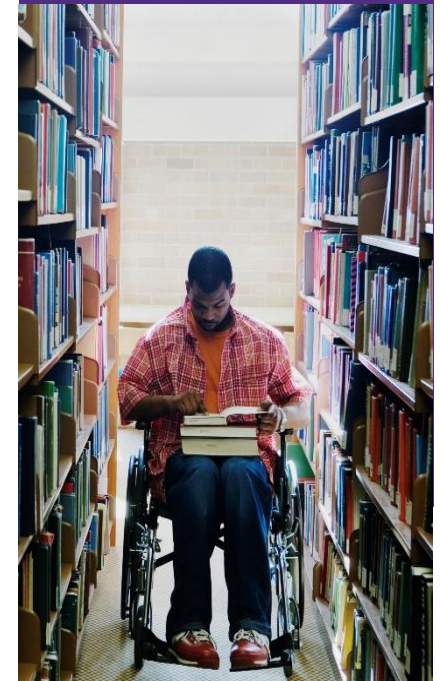
An improvement plan has been developed and was agreed by the Major Contracts Improvement Board on 1 March 2022, seven months after it was agreed to establish an Improvement Board. The Major Contract Improvement Board is an internal joint officer and member board responsible for monitoring performance, however, progress is not reported to Cabinet.

Further detail is provided on page 14.

Management comments

The Council will continue to progress the actions against the Major Contracts Improvement Plan and progress is reported through to the Major Contracts Improvement Board on which Council Members are represented.

The range of recommendations that external auditors can make is explained in Appendix C.



Key recommendations



3. Key Recommendation

The Council should seek to regularise its contractual arrangements for its public realm contract with Balfour Beatty Living Places Limited and ensure it:

- obtains further legal advice beyond that already obtained to clarify the validity of the current contract arrangements
- fully understands the implications of contracting and paying a dormant company
- undertakes appropriate due diligence before engaging in any major contracts; and
- reviews existing contracts to ensure they are operating within appropriate legal standards and internal policies.

Why/impact

These changes should ensure the risk to the Council is minimised.

Summary findings

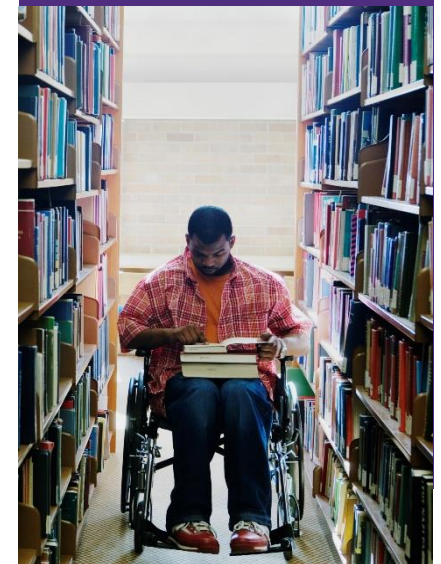
The Council identified in January 2021 that BBLP was a dormant company as evident at Companies House. This information was not reported to members and no action or legal advice was obtained by the Council to understand the implications of contracting with a dormant company until March 2022, following assurances requested as part of our value for money review. As a result this has highlighted the validity of this arrangement and the increased risk to which the Council is exposed.

Further detail is provided on page 15.

Management comments

The Council has obtained further legal advice and are considering the recommendations made by the external advisors.

The range of recommendations that external auditors can make is explained in Appendix C.



Commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources

All councils are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. The Council's responsibilities are set out in Appendix A.

Councils report on their arrangements, and the effectiveness of these arrangements as part of their annual governance statement.

Under the Local Audit and Accountability Act 2014, we are required to be satisfied whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The National Audit Office's Auditor Guidance Note (AGN) 03, requires us to assess arrangements under three areas:



Governance

Arrangements for ensuring that the Council makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the Council makes decisions based on appropriate information.



Improving economy, efficiency and effectiveness

Arrangements for improving the way the Council delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Financial sustainability

Arrangements for ensuring the Council can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years).



Our commentary on each of these three areas, as well as the impact of COVID-19, is set out on pages 11 to 39, detail on how we approached our work is included in Appendix B.



Improving economy, efficiency and effectiveness



We considered how the Council:

- uses financial and performance information to assess performance to identify areas for improvement
- evaluates the services it provides to assess performance and identify areas for improvement
- ensures it delivers its role within significant partnerships, engages with stakeholders, monitors performance against expectations and ensures action is taken where necessary to improve
- ensures that it commissions or procures services in accordance with relevant legislation, professional standards and internal policies, and assesses whether it is realising the expected benefits.

Performance management

The Council set out its vision and objectives within its County Plan. The aim is that the County Plan should be reviewed annually, however due to COVID-19 the process was delayed and the County Plan agreed in 2019 covered 18 months with the new County Plan being agreed in February 2020. The County Plan was supported by a delivery plan which included the objectives against which the County Plan was monitored.

The Council had a performance management framework to enable a consistent approach and ensure everyone understands their role in the process. This identifies that the delivery plan is supported by Directorate Plans which are supported by Service Business Plans.

In 2020/21, performance against its delivery plan and objectives was reported to Cabinet on a quarterly basis within the quarterly budget monitoring reports. These reports included information on financial performance (capital and revenue) as well as service performance. The Council has been developing and improving its reporting to Cabinet during the year and as such the format of the reports have changed during the year.

Performance across the Council was formally assessed monthly, at Directorate level, followed by the Management Board before being reviewed by Cabinet on a quarterly basis.

The Council gained assurance over the accuracy of data in its performance reports through operational management review of the performance information. The Council also has a data quality policy which is maintained by the governance section. This policy sets out that all managers and employees have a personal responsibility and accountability for the accuracy and sound presentation of data freedom from duplication and confusion.

Children's Social Care Services

In June 2018 the Council's Children's Social Care services were inspected by Ofsted and received the overall judgment of 'requires improvement'. Following subsequent Ofsted inspections in January and December 2019 the Council had made limited progress in improving the quality of practice and service provision for children in need.

In March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care. Whilst in Council care the health of one of the children deteriorated and sadly died. The judgment found significant failings over an extended period, with regards to how to support the children in their care, the foster parents and the birth family of the children in care. Subsequent to this judgment the Council received a non-statutory improvement notice from the DfE in May 2021.

Ofsted undertook a focused visit in July 2021 and issued their findings in August 2021. Ofsted concluded that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since the inspection in June 2018.

The court judgment, the non-statutory notice and the latest Ofsted focused visit illustrate the Council's inability in 2020/21 to have effective arrangements in place and to improve performance following external third party inspections.

Improving economy, efficiency and effectiveness

Children's Social Care Services

In addition to the improvements required as a result of the court judgment and the DfE non-statutory notice, the Council is also examining its arrangements for safeguarding - peer on peer abuse within schools. In September 2020 a review of historical cases of peer on peer abuse within schools was undertaken. This review was reported to Cabinet in November 2020 and recommended that further work should be undertaken to understand why an original review in 2017 had not been shared with schools and members, so that lessons could be learnt from this incident. The outcome of this further work has yet to be reported to Cabinet, but does highlight the Council's historical difficulty in learning and enabling change from past issues and cases.

Action taken in 2021/22

During the Court hearing the Council began to take action and immediately after the release of the court judgment a statement was made by the Leader of the Council. An extraordinary Council meeting was held on the 27 April 2021. At this meeting the following actions were agreed:

- the establishment of the Improvement Board to be chaired by the improvement advisor for the Department for Education
- resources to the value of £5.2m were to be made available to fund the required changes. Cabinet agreed to increase this to £11.5m on the 31 March 2022 (further details on page 29 sets out the anticipated full cost at the time of writing).

The Improvement Board held its first meeting in June 2021. To date seven meetings have been held. The Improvement Board monitors performance against a range of indicators and include regular updates from the Director of Children's Services.

Improvements were firstly progressed by an interim Director prior to the appointment of a permanent Director of Children's Services in December 2021. The new Director began the process of developing the improvement strategy to make it more outcome focused and has now completed his review. The Council now has a better understanding of the actions and resources required to improve performance and has identified that it needs to temporarily improve its establishment in 2022/23 to support the transformation plan and improve activity.

In addition the Council's Chief Executive commissioned an independent audit of 1,000 live cases open to Early Help and Children's Social Care. Whilst this did not identify any serious safeguarding issues requiring immediate action, the majority were considered as being inadequate or requiring improvement to be good.

Improving Children's Social Care Services is a top priority for the Council and is reflected in its Annual Governance Statement and corporate risk register. The extent of the changes required mean that progress will take a number of years to introduce and the Council considers that it will take three years before a level of sustainable improvement is achieved. With the Council first having reviewed current practice, identified the changes required and is now in the difficult implementing and delivery stage.

Auditor judgment

We consider the Council's failure to meet the statutory needs of children in its care to be a significant weakness in arrangements for the audit year 2020/21.

This is evident from the findings in the court judgment, the DfE non-statutory improvement notice, the lack of progress made since Ofsted inspected in 2018 and the Ofsted focused visit following the court judgment. In addition, the peer on peer abuse review also illustrates the Council's inability to learn from and to share findings from previous reviews.

Improving economy, efficiency and effectiveness

Benchmarking and learning from others

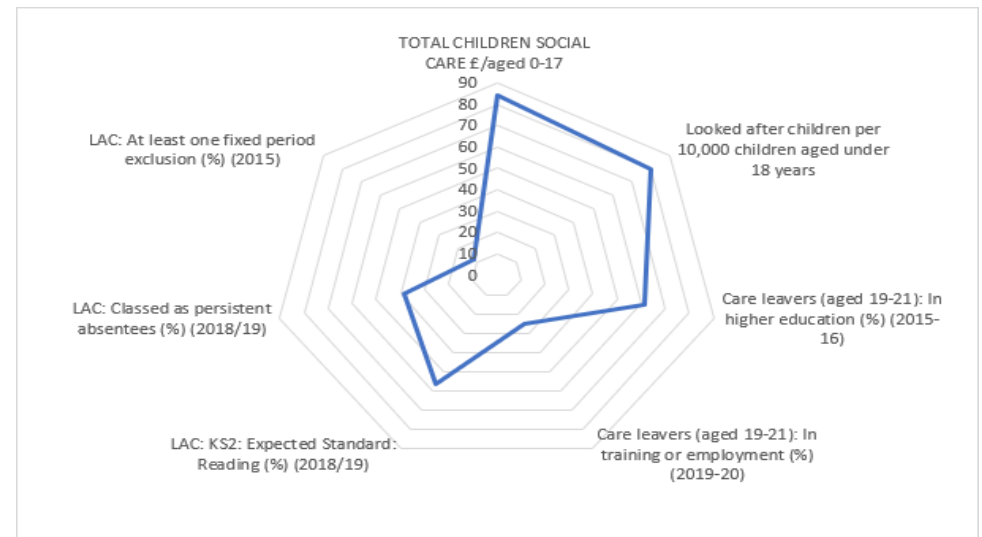
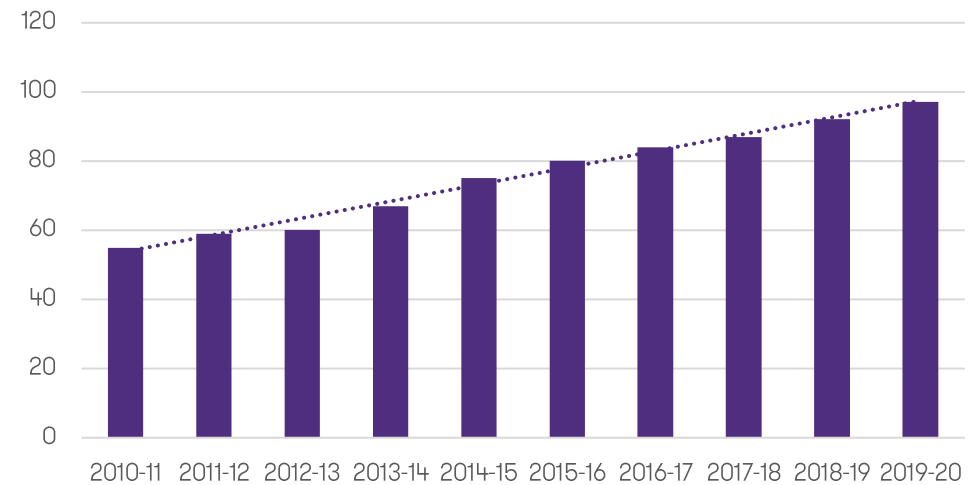
Benchmarking and comparing the Council's performance to others enables it to identify both areas of good performance but also those areas where performance could be improved. The Council has used benchmarking to identify high cost areas and has used the benchmarking services of LG futures in previous years. However, due to a lack of capacity in 2020/21, limited benchmarking has been undertaken. As part of our review we discussed a range of indicators produced by our management tool, 'CFO Insights'. The indicators compared the unit costs for a range of services. The indicators identified the following areas where the unit costs were high in comparison to other unitary authorities:

- Children's social care
- Highways and transport services

The high cost of children's social care is attributable to the high numbers and the very high cost of looked after children. The charts opposite show the increase in numbers of Looked After Children (LAC) since 2010/11 and the high costs and numbers along with a range of outcomes for these children. The Council has acknowledged these issues, which it considers should be addressed through the improvement plan for children's social care.

The Council is also aware that highways and transport service are high cost in comparison to others and in order to address this has identified savings within this service area. The Council should consider extending the use of benchmarking, in particular in those areas of high cost in comparison to others.

Looked after children per 10,000 aged under 18



Improving economy, efficiency and effectiveness

Procurement and contract management

The Council has a Commissioning and Procurement Strategy published on its website which was last updated in 2018 and is the forward plan to be updated in 2022. This strategy contains seven procurement aims and actions as to how these aims will be achieved. However, we are not aware of a formal process which monitors progress against these aims and ensures progress is achieved and remedial action taken as required. We recommend that the strategy should be reviewed, updated as necessary and the actions translated into a deliverable action plan. A mechanism against which progress against these deliverables can be monitored should then be implemented.

In our 2019/20 VfM work and in our initial planning we raised concerns about how the Council was managing its public realm contract and was responding to its review of the Herefordshire City Centre Transport Package (HCCTP).

In January 2020 a major capital contract review was undertaken by the Interim Capital Projects Director. This review considered the management arrangements of the Council's public realm and facilities management contracts. This contract is a framework contract and has been held by one contractor since 2013 when the contract was awarded. The findings of this review were reported to Cabinet in September 2020.

The review highlighted that there were concerns over performance monitoring, financial and contract compliance monitoring. Concerns included:

- risk management - as the risk register does not sufficiently log actions related to risks;
- relationship management - as there was "little constructive tension" between the two parties leading to a lack of competitive dialogue
- the contractor did not always provide 'proactive support, or the collaborative behaviour that would be expected from a strategic partner' and a lack of clear demarcation between the Council and its contractor, as both sides were co-located in the same office; and
- change management - as the framework agreements were not included in the contracts register.

Concerns were also highlighted around the Council's internal governance, whereby the Council did not appear to be adhering to the contract procedure rules, when commissioning works outside the core programme.

The main recommendations arising from this report were:

- build technical knowledge within the Council - the Council relies on its contractor for technical assistance which limits the Council's ability to scrutinise or monitor effectively;

- improve internal communication and education – the Council needed to better understand the contract in order to achieve value for money;
- increase the involvement of the Council's procurement team – to assist with governance and provide expertise;
- set up a contract management framework; and
- consider an appropriate contract management system.

Following this review, work was undertaken internally to review the Herefordshire City Centre Transport Package (HCCTP). Following initial work being undertaken by internal audit the Assistant Director Corporate Support and Head of Information Compliance undertook an independent review. This review concluded in January 2021, but was not reported to Cabinet until 29 July 2021.

Action taken in 2021/22

In July 2021 Cabinet were made aware of the concerns over the management of the contract and a range of recommendations were agreed. This meeting also agreed the establishment of the Major Contracts Improvement Board, acknowledged that there was insufficient budget to complete the remaining elements of the HCCTP programme and further confirmed the earlier concerns that were reported in the previous review of the public realm and facilities management contract. Cabinet also agreed to resource and facilitate the required improvements in contract management and commissioning, to strengthen the corporate centre and to provide capacity and support.

The Council has appointed an Interim Director of Environment and Place and an Interim Service Director for Highways. These individuals are responsible for ensuring changes are made and that arrangements are improved. We recognise that some changes have been made, such as building technical knowledge within the Council and the appointment of interim officers to support contract management and commissioning.

An improvement plan has been developed and was agreed by the Major Contracts Improvement Board on 1 March 2022, seven months after it was agreed to establish an improvement board. The improvement plan is published on the Council's website. The Major Contract Improvement Board is an internal joint officer and member board responsible for monitoring performance and progress against the improvement activities it oversees. Progress is not reported to a formal member committee or Cabinet.

We will review the improvements made as part of our value for money assessment for the 2021/22 financial year to evaluate if the inadequacy of arrangements in the contract management system have been addressed.

Improving economy, efficiency and effectiveness

Balfour Beatty Living Places Limited

In addition to the concerns relating to contract management, it should be noted that the public realm contract is held with a dormant company Balfour Beatty Living Places Limited (BBLP). This company was dormant at the time the contract was awarded in 2013 and remains dormant. Payments are also being made to BBLP, under invoices showing the company name of the dormant company.

In January 2021 in the review undertaken by the Assistant Director Corporate Support and Head of Information Compliance senior officers became aware that the Council was contracting with a dormant company, BBLP. However, the findings of this report were not reported to members until July 2021 and omitted to report that BBLP was a dormant company. No action was taken by the Council at the time when the dormant company was discovered, such as obtaining legal advice to protect the Council's interests from it contracting with and paying a dormant company. Legal advice was not obtained until March 2022 following our enquiries. The Council has obtained third party legal advice and this advice has established that the validity of this arrangement is a matter of concern and the existing arrangement should be addressed by the Council. This arrangement is in the process of being resolved with Balfour Beatty Living Places Limited.

Having identified that the Council has an existing contract with a dormant company we reviewed the Council's current contract procedure rules to consider what guidance is included on tender evaluation and due diligence. However, we noted that the contract procedure rules did not cover the evaluation of tenders and the range of due diligence required of potential suppliers. In our experience basic due diligence of potential suppliers would include a review of accounts filed with Companies House and would have established if a potential supplier was operating through a dormant company. We understand the Council has since established that the Council had been aware that BBLP was a dormant company in 2013. However, due to the elapse of time and a change in officers this knowledge and historical background was not currently known to the Council until we raised and questioned this arrangement.

As a result we recommend that the contract procedure rules, documented within the Constitution, should be updated to include contract evaluation and the extent of appraisal of potential suppliers (due diligence) that should be undertaken before awarding a contract.

Auditor judgment

We have identified two significant weaknesses in relation to contract management of the Council's public realm and facilities contract in the audit year 2020/21:

- Firstly, the Council's lack of effective contract management arrangements, for its public realm and facilities management contracts, to hold its contractor to account. The Council has begun to improve arrangements, but these changes were either made in 2021/22 or are planned for 2022/23.

- Secondly, the Council is contracting with and making payments to a dormant company and these arrangements have been in place since 2013 when the contract was agreed. We therefore consider that the Council's contract appointment and management arrangements include a significant weakness in arrangements, as it did not establish the validity of contracting and continuing to trade with a company which was dormant or otherwise non-trading from a formal perspective. More recently, action has not been taken by the Council to understand the implications and impact of contracting and making payments to a dormant company.

Performance managing subsidiaries

Hoople Limited is a joint venture (JV) subsidiary company of the Council created in April 2011 to deliver business support services to clients across the public and private sector. In 2020/21 Hoople Limited was wholly owned by the Council and Wye Valley NHS Trust, the Council being the majority shareholder.

Performance monitoring a subsidiary requires a different approach, as the JV should be able to operate commercially whilst delivering its services in line with any agreed contract or service level agreement.

Hoople Limited is managed through a service level agreement (SLA) which is reviewed and updated annually. Based on this SLA, key performance indicators were in place and were monitored by the individual service managers. Performance was not routinely and regularly reported to Members. Hoople Limited is viewed internally by management as another department of the Council as this enables greater flexibility and response to changes in service requirements. However, Hoople Limited is a separate legal entity and the Council should consider if these arrangements would be appropriate if circumstance were to change, such as if performance was deteriorating, and if existing good working relationships were to deteriorate.

Whilst the Council may consider that it is able to influence and be fully aware of Hoople's performance, it should also be mindful of potential conflicts of interest as some members and officers have to balance their duties as directors of Hoople with their duties as employee or elected representative of the Council. For example, if things were not to go as planned and additional funding or other support is needed to support Hoople through a difficult patch, the risk of a conflict might increase.

Whilst, we do not consider this to be a significant weakness in arrangements we do consider that arrangement could be strengthened by introducing more formal performance monitoring including formal performance reporting to members, such as an annual report.

Improving economy, efficiency and effectiveness

Significant partnerships

The Council's County Plan and Delivery Plan acknowledge the importance of partnership, such as the Local Enterprise Partnership, but do not always directly name the relevant partnership. In order to improve the Council's arrangements relating to significant partnerships the Council has defined significant partnerships, developed a partnership framework and introduced a partnership register. Both the partnership framework and register are available on the Council's website.

During 2020/21 the Council considered the effectiveness of its partnerships and changed the definition to move away from primarily contractual arrangements to include statutory partnerships.

The Council also introduced self assessments as part of the draft Annual Governance Statement for 2020/21. These self assessments were completed by the service departments and reviewed by the Audit and Governance Committee in July and September 2021. Whilst the self assessment demonstrated the Council's commitment to improving its understanding and partnership arrangements it demonstrated, in our opinion, some key areas for improvement are required, as shown below.

The self assessment did not clearly identify the strategic objective to which the partnership is linked and contributes. We found that in response to the question '*Which predominant council priority does the partnership meet?*', often the response given is just the name of the Directorate, such as Community or Economy. Detailed responses were often not given to a range of questions, with one word answers such as yes or no provided. These limited responses should be avoided as they do not enable officers and members to understand what arrangements were in place and provide effective challenge.

In addition we consider that the self assessment could be improved by reviewing the questions asked and whether all the questions are required to improve the clarity and understanding of the information, currently 44 questions are included. In addition whilst the Council has defined what it considers to be a significant partnership the following definitions are not clearly evident in the self assessment:

- financial responsibility – based on a threshold for the Council's annual contribution, or for directing Council funding of £100k (excluding staffing costs); and/or
- strategic importance – the partnership being critical to the delivery of key Council objectives or statutory obligations, or is a fundamental component of Council priorities and functions and the Council's reputation could be damaged by the partnership's failure to deliver.

The Council would benefit from clearly defining and responding to the questions as set out within the Council's own definition of a significant partnership.

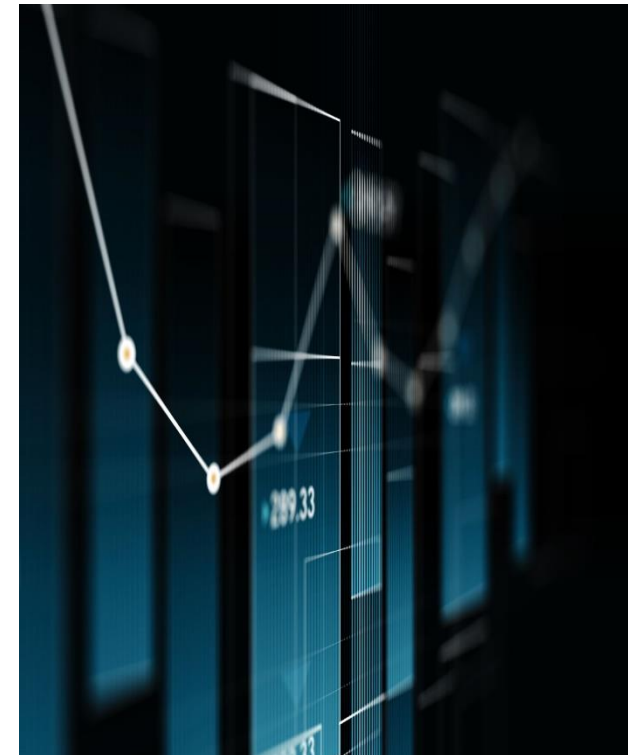


Improvement recommendations



Improving economy, efficiency and effectiveness

1 Recommendation	The Council should consider extending the use of benchmarking, in particular in those areas which are high cost in comparison to others, such as highways and transport services.
Why/impact	Benchmarking enables services to be compared and potential savings and efficiencies to be identified.
Summary findings	The Council has used benchmarking to identify high cost areas and has used the benchmarking services of LG futures in previous years. However, due to a lack of capacity in 2020/21, limited benchmarking has been undertaken.
Management comment	<p>The Council, through its Corporate Management Team, uses a range of data and information to evaluate performance of the contract including that of:</p> <ol style="list-style-type: none"> 1. the NHT National Highways and Transport Network (HTA) 2. the Association of Directors of Environment, Economy, Planning and Transport (Adept). <p>The Council have recognised that this only provides a narrow optic into the overall performance of the contract and have built into its work programme for 22/23, which is committed as part of the contract Annual Plan, to undertake a “mid-term contract review” to fundamentally challenge and assess the contractor’s performance. The Council have commissioned APSE (Association of Performance Service Excellence) to participate in its Performance Networks Benchmarking service across all Public Realm contract functions. This will commence in April 22 on the 2021/22 data.</p>



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Improving economy, efficiency and effectiveness

2 Recommendation	The Council should review its Procurement and Commissioning Strategy, update it as necessary and ensure the actions are translated into a deliverable action plan. A mechanism against which progress against these deliverables can be monitored should then be implemented.
Why/impact	The strategy could be out of date and not reflect current Council policy. The Council and its members will be unaware if it is achieving the agreed objectives within the strategy and what actions are required to improve performance.
Summary findings	The Council has a Commissioning and Procurement Strategy published on its website which was last updated in 2018. This strategy contains seven procurement aims and actions which set out how these aims will be achieved. However, we are not aware of a formal process which monitors progress against these aims, ensures progress is achieved and remedial action taken as required.
Management comment	A review of the Procurement and Commissioning Strategy is already underway and nearing completion. There will be a clear action plan to accompany the Strategy and governance of the delivery of the action plan will be undertaken by Management Board.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



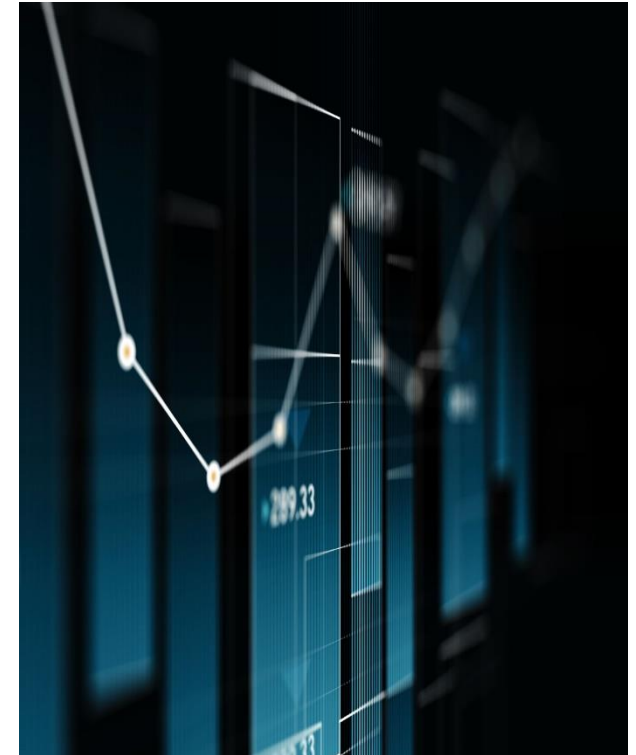
Improving economy, efficiency and effectiveness

3 Recommendation The Council should review and update the contract procedure rules, documented within the Constitution, to include contract evaluation and the extent of appraisal of potential suppliers (due diligence) that should be undertaken before awarding a contract.

Why/impact This should ensure that the Council identifies and is able to mitigate the risks of potential suppliers.

Summary findings The contract procedure rules documented within the Constitution do not cover the evaluation of tenders and the range of due diligence required of potential suppliers.

Management comment The Contract Procedure Rules (CPRs) will be updated to include guidance, checklists and a toolkit to ensure that potential suppliers are appraised before contracts are awarded.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Improving economy, efficiency and effectiveness

4 Recommendation	The Council should strengthen the performance monitoring arrangements for Hoople Limited to include formal reporting to members, such as an annual report.
Why/impact	This would ensure that officers and members are able to effectively challenge and address any underperformance within its subsidiary.
Summary findings	Hoople Limited is a separate legal entity of which the Council is a majority share holder. Hoople is managed through a SLA which is reviewed and updated annually. Based on this SLA KPIs are in place which are monitored by the individual service managers. Performance is not reported to Members.
Management comment	The Council is going to strength its performance monitoring arrangements for Hoople Ltd which will include reporting via the Quarterly Performance Reports reported through to Cabinet.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Improving economy, efficiency and effectiveness

5 Recommendation	<p>The Council should review and improve the content of the significant partnerships' self assessment, both the questions asked and the replies received and consider:</p> <ul style="list-style-type: none"> • documenting the strategic objectives to which they contribute • ensure detailed responses are provided • define why the partnership is a significant partnership in line with the Council's own definition.
Why/impact	Without more detailed and relevant information within the self assessment, those charged with governance are unable to gain assurance on the effectiveness of the partnership arrangements.
Summary findings	The significant partnership self assessment we reviewed as part of this audit did not clearly identify the strategic objective to which the partnership is linked and contributes. Detailed responses were often not given to a range of questions, with one word answers such as yes or no often provided.
Management comment	The Council will review and improve the self-assessment document itself and ensure that it complies with the Council's definition of a significant partnership. The Council will also revisit the guidance issued for the reviewing of the self-assessment document.



The range of recommendations that external auditors can make is explained in Appendix C.

Governance



We considered how the Council:

- leadership and governance
- monitors and ensures appropriate standards
- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- ensures effective processes and systems are in place to ensure budgetary control
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency.

Continuity of senior officers

In our 2020/21 Audit Plan we identified the impact of changes in the management team as a governance risk and whereby, the loss of continuity and corporate memory could have adversely impacted on the management arrangements. As a result, we have considered the changes in Directors and senior officers in 2020/21 and 2021/2.

We established that there were two changes in senior posts in 2020/21, including the Chief Executive following his retirement, with more significant turnover in 2021/22.

The Council has sought to recruit permanent employees wherever possible and appointed interims whilst permanent employees are being sought.

The highest turnover is within the Children and Families Directorate, which is not unexpected when the Children's Social Care Service had received adverse findings and is undergoing an improvement journey. In addition the court judgment and the DfE improvement notice also identified failures in the leadership and management of children's services which had an impact on the Council's ability to effectively meet its statutory duties.

The Council has strengthened its leadership in the Children's Social Care Service and is now moving to the improvement and delivery stage.

We do not consider that the management changes have had an adverse impact on governance during 2020/21.

These leadership changes also provide an opportunity to strengthen the governance arrangements and develop effective delivery plans. We are aware that following the appointment of the new Chief Executive in 2021/22 the Council is reorganising its senior management and developing its corporate culture.

Monitoring standards and maintaining legislative requirements

The Council has a range of officers who are responsible for ensuring and monitoring compliance with statutory and legislative standards, such as the Monitoring Officer and the Section 151 Officer. Whilst no issues were evident with meeting financial regulatory requirements, the Children's Social Care issues referred to earlier in this report do represent a shortfall against relevant legislative standards. Further details on this judgment can be found on page 11 and the significant weaknesses we have identified.

A range of policies and standards are in place to ensure compliance, such as codes of conduct, gifts and hospitality and whistle-blowing policies. The whistleblowing policy is reviewed annually. In March 2021 Internal Audit reported to the Audit and Governance Committee on the Council's whistle-blowing arrangements. This review provided 'substantial' assurance and included a survey of 100 staff to support its findings.

Officers and members are required to annually declare any interests that they might have and any gifts and hospitality received during the year.

Settlement agreements

In 2020/21 two settlement agreements were approved, for officers in the Council's employment, with a third settlement agreement being made in 2021/22.

The first settlement agreement made in 2020/21 was approved by the Employment Panel. This decision was minuted and the decision recorded as a confidential decision.

The Council's Monitoring Officer has confirmed that the negotiations to reach the settlement agreements were carried out by the appropriate officers in conjunction with HR, Legal and Finance.

Governance

Settlement agreements continued

The second and third settlement agreements did not require member approval. The Council's scheme of delegation gives authority to the Monitoring Officer to approve settlement agreements and in the event of any conflict of interest, authority to approve the settlement agreement is delegated to the Deputy Monitoring Officer. However, we encountered difficulties in obtaining a clear audit trail to support the decisions.

Risk management

Our review of the governance arrangements in relation to risk management and internal control has not identified any risks of significant weakness in the 2020/21 financial year.

The Council has a Risk Framework which is documented within its Performance Management Framework. This framework is supported by its Risk Plan which sets out the Council's risk management process and provides guidance to enable officers to identify, assess and manage the risk.

The Council produces risk registers at service, directorate and at corporate level. Depending on the type and risk score will depend on which register the risk will be held and who is assigned as risk owner. The directorate and corporate risk registers were reviewed by the Management Board prior to be reviewed by the Audit and Governance Committee.

In 2020/21 the risk registers were reviewed three times by the Audit and Governance Committee. As part of this review process risks were added and removed from the corporate risk register. It is evident that the Council has significantly reduced the number of risks on its corporate risk register and removed a number of long standing risks to ensure members are focused on key strategic risks.

The risk registers rate each risk using a Red/Amber/Green (RAG) rating and assign a risk owner. However, the risks on the corporate risk register are not mapped to the Council's strategic priorities and objectives, as set out within the County Plan. In line with good practice we recommend that the corporate risk register should map to the Council's corporate objectives more specifically.

The internal audit function operating at the Council is provided by the South West Audit Partnership and, although the service experienced challenges as a result of COVID-19 during the year and priorities changed, a balance between providing direct assistance to the Council and maintaining audit work was achieved.

A "Reasonable Assurance" opinion was given by SWAP on the adequacy and effectiveness of the Council's internal control framework. No significant risks were identified in 2020/21 and as a result no priority one recommendations were raised.

Budget setting, control and monitoring

Our review of the governance arrangements in relation to budget setting, control and monitoring has not identified any risks of significant weakness in the 2020/21 financial year. The Council's budget setting, monitoring and reporting arrangements involved budget holders throughout the year and we observed close dialogue between budget holders and finance officers, which helped to achieve an agreed position. Members were involved through consultation with the scrutiny committees and external consultation was undertaken, the outcome of both was published within the budget papers.

The budget setting process for the 2021/22 began in July 2020 with a review of the base budgets and a review of all cost centres. Cost pressures were identified and discussions were held with the budget holders. These budgets were then scrutinised by the Management Board, who were also tasked with identifying the Council's underlying savings requirement.

Budget monitoring reports were produced monthly, beginning in May 2020. Closedown was the last day of the month and within three days of closedown the Section 151 officer receives the forecast outturn. Monthly budget reports were taken to the management Boards and quarterly reports were taken to Cabinet. These reports combine the financial position (capital and revenue) as well as corporate performance. These reports are received two to three months after the period end and in our opinion provide sufficient detail to enable Members to challenge performance.

The budget was approved in February 2021 alongside the Medium-Term Financial Strategy (MTFS), Capital Programme and Treasury Management Strategy. Reserves are also reviewed as part of the integrated budget setting process.

Governance

Informed decision-making and appropriate challenge

Our review of the governance arrangements in relation to informed decision making has not identified any risks of significant weakness. In the 2020/21 financial year, members were provided with multiple opportunities to review decisions before they were finalised, through reports which are published and submitted throughout the committee structure. There are specific Scrutiny Committees for the different services which scrutinise the plans and decisions of the Council before recommending them for approval to Cabinet.

The work of the Council's committees is governed by the constitution. The constitution is available on the Council's website and was last updated in May 2018. However, we are aware that the Constitution has been updated during the year but this is not reflected in what is recorded on the Council's website. The Council's website should be updated to reflect these reviews and updates.

In order to assess the decision-making processes operating in 2020/21, we considered the decision made by Cabinet to stop the southern link road and stop the western bypass. The decision process began in 2019/20 progressed in 2020/21 with technical advice and peer review being commissioned with the final decision being made by Cabinet in July 2021. Scrutiny Committees were involved with their recommendations presented to Cabinet. The Council's advisors attended Committee and were available to answer members' questions. Financial costs and risks were also set out in the covering report. Based on this review we did not identify any areas of concern.

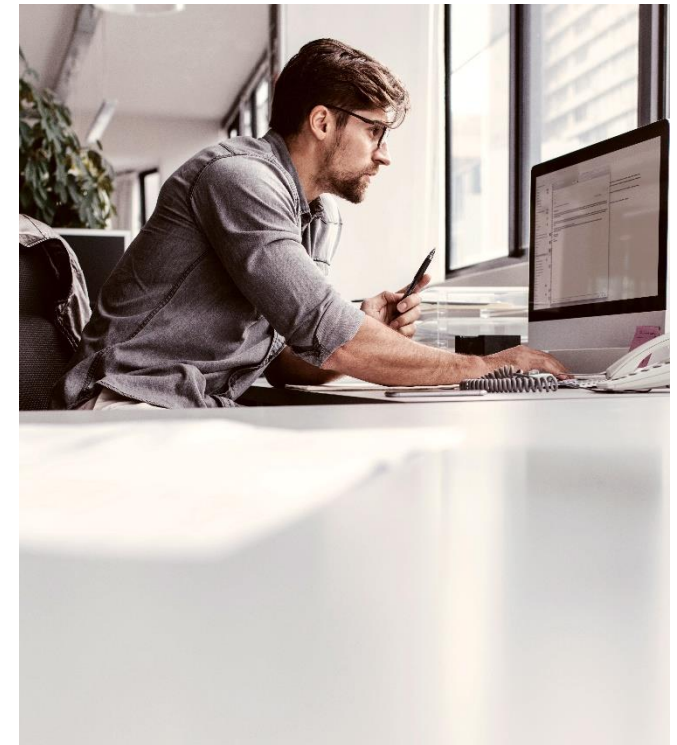
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Improvement recommendations

Governance

6 Recommendation	The Council should ensure that appropriate records are maintained for settlement agreements and an audit trail is established. We suggest a central record should be maintained which includes confidential decisions so that corporate knowledge is maintained regardless of changes in Senior Officers.
Why/impact	Records should be maintained to enable the Council to demonstrate that appropriate procedures have been followed.
Summary findings	The Council provided us with copies of the settlement agreements as a record of the decisions for the second settlement agreement made in 2020/21 along with a settlement agreement made in August 2021. We encountered difficulties in obtaining a clear audit trail to support the decisions.
Management comment	Procedures will be reviewed and appropriate records will be maintained going forward of all decisions in relation to settlement agreements.

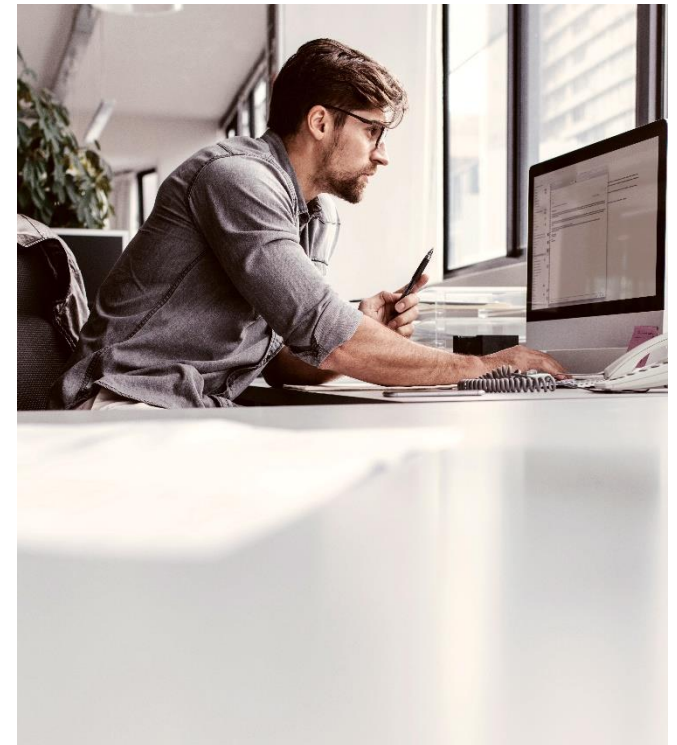


The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations

Governance

7 Recommendation	The corporate risk register should be updated to map each corporate risk to the relevant corporate objective.
Why/impact	This will ensure that officers and members are aware of the corporate objective that could be impacted should the risk not be effectively managed.
Summary findings	The risks within the corporate risk register are RAG rated and assigned a risk owner but are not mapped to the Council's corporate objectives.
Management comment	The review of the Corporate Risk Register and the approach to strategic risks is already in the forward plan for review by Management Board. This will including linking strategic risks to the global risk landscape and corporate objectives.



The range of recommendations that external auditors can make is explained in Appendix C.

Financial sustainability



We considered how the Council:

- identifies all the significant financial pressures it is facing and builds these into its plans
- plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning
- identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans.

Identifying and addressing financial pressures

For the financial year 2020/21 the Council reported to Cabinet a revenue overspend of £38,000 in June 2021, including delivery of £1.9m of savings against an original target of £2.35m, 81% delivery rate. This overspend was funded from reserves. This overspend was as a result of underspends in the Adults and Communities Directorate (£1.96m) and central treasury and capital financing reserves (£1.9m) and overspends of £3.7m in the Children and Families Directorate and £0.8m within Economy and Place.

The year end performance was an improvement on the forecast outturn position reported throughout the year and has been achieved due to the receipt of additional COVID-19 funding and the shortfall in achieving planned savings being funded from reserves.

The Council's capital expenditure was £55m, an underspend of £35m against the revised budget of £90m for 2020/21.

The Medium-Term Financial Strategy (MTFS) and budget for 2021/22 were approved by Full Council in February 2021. A net budget of £157.117m was approved. This net budget excluded the Better Care Fund, public health and the Dedicated Schools Grant (DSG) budgets and included challenging savings of £11.1m, although significant savings are not anticipated for 2022/23 and 2023/24.

The MTFS published by the Council does not provide a financial forecast beyond one year. Although funding has been modelled over three years, the cost of services was not and the budget deficit has not been projected beyond one year.

A three year forecast was developed internally but this was not published and provided to members. The Council's rationale for not providing a financial strategy for longer than one year for members is the uncertainty of only receiving annual financial settlements.

Although it is recognised that the forecasts become more uncertain the further out in time the forecasts go, medium and long term financial planning is required to provide a basis for future policy and decisions. The Council should move to a MTFS which models financial plans over three to five years in accordance with current best practice.

Uncertainty can be better understood by quantifying the uncertainty of the data or by providing scenarios and sensitivity analysis which would provide a forecast outcome from a change in forecast parameters. For example forecasting the budget gap if pay costs were to increase by 1, 2 or 3%. The sensitivity analysis and scenario analysis has been limited to income.

The Budget and MTFS included a range of assumptions which in our view were reasonable based on the amount of uncertainty faced by the sector, although more recent pressures, such as the energy and inflationary pressures may put these into question for subsequent years.

Assumptions included:

- Council Tax (CT) increase of 2% from 2022/23, with a decline in the base for one year only as additional households claimed relief
- no increase in adult social care precept
- pay inflation 3% in 2020/21, 2% thereafter
- non-pay (contract) inflation, this includes a variety of anticipated increases across a range of different contracts, such as spot contracts for care market.

Financial sustainability

Identifying and addressing financial pressures

In 2020/21 the Council had a savings target of £2.35m and achieved 81% of this target (£1.9m). For 2021/22 the savings target was significantly higher and the Council required £11.205m of savings, an increase of over £8m compared to 2020/21. As at quarter 3 the Council has delivered £7.417m and has forecasted to deliver £8.336m (74%) by the year end. For 2022/23 the savings target has reduced to £2.37m.

The Council recognised that its arrangements for achieving better delivery of savings targets needed to be strengthened and as a result has introduced 'Star Chambers' to provide greater challenge and the requirement for all savings plans to be supported by a business case and an equality impact assessment.

The MTFP contained a list of savings and income generation schemes. The progress against the savings targets is reported quarterly to Cabinet and clearly highlights those savings yet to be delivered and at risk of non-delivery. However, a clear explanation is not always provided such as why slippage has occurred and if any mitigating actions are required. The savings are also reviewed by the Management Board prior to review by Cabinet.

The Dedicated Schools Grant (DSG) is a ring fenced budget which is allocated in four blocks; schools, early years, high need and central school services. The Council, along with other authorities across the country is facing high demand and increased costs within the high needs block. However, unlike many other authorities the Council is fortunate not to have an overspend on its high needs block in 2020/21, although the DSG high needs block budget remains a challenge in 2021/22.

The financial position on the DSG is not routinely reported to members and was not included within the quarterly budget reports. This information was discussed and agreed with the Schools Forum and budget decisions are taken by the relevant Cabinet Lead.

During 2020/21 and in early 2021/22 a number of issues have occurred that have had a financial impact on the Council in 2020/21 and beyond. These include:

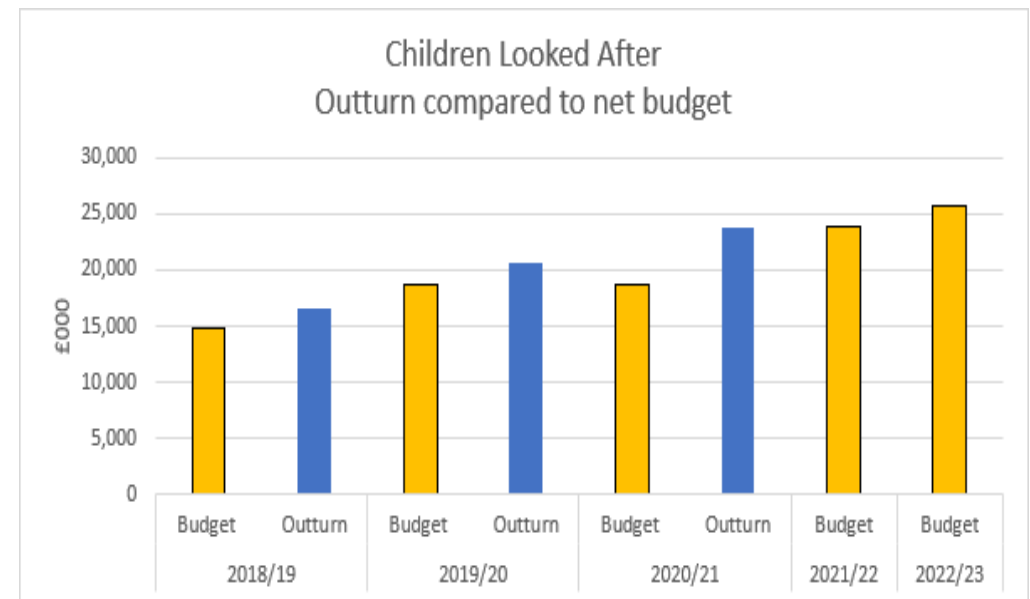
- Herefordshire Transport Strategy - a decision was made to stop the western by-pass and southern link roads
- the increasing costs and overspends for Looked After Children (LAC) by the Council
- Children's social care - the court judgment issued by The Hon Mr Justice Keehan and the subsequent non-statutory notice from DfE.

The decision to stop the western by-pass and southern link roads was made by Cabinet in December 2020. This decision is discussed in more detail on page 24.

The total cost was £11.4m and it was agreed that this would be funded from earmarked reserves. In addition a repayment of growth deal funds was made to the Marches Local Enterprise Partnership (LEP).

This additional cost was funded from reserves, so that the financial impact of this decision was a reduction in reserves in 2020/21 with no financial impact on subsequent years.

The chart below compared the budget compared to outturn for LAC. It illustrates the increasing costs year on year and that although the budget has increased the Council has still consistently overspent. This financial pressure is being experienced by councils across England and Wales, but the situation is compounded further by the recognition that the services provided by the Council were in considerable and urgent need of improvement. This has been highlighted on pages 11 and 12.



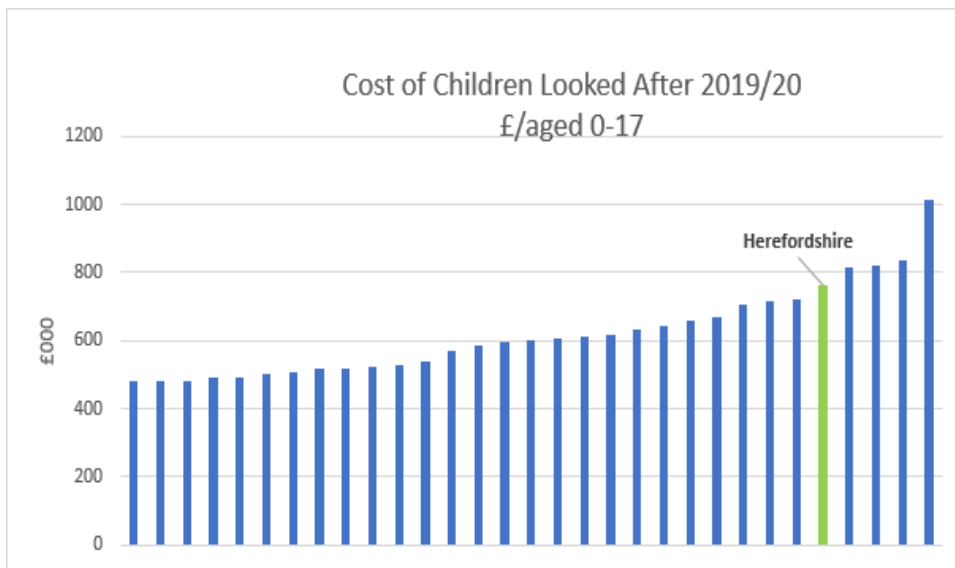
Financial sustainability

Identifying and addressing financial pressures

The MTFS for 2021/22 onwards does not take into account the financial impact of the court judgment and the non-statutory notice, as these occurred after the budget and MTFS were agreed. An update was taken to Cabinet in June 2021 highlighting the non-statutory improvement notice and the establishment of an Improvement Board and agreement to fund the improvements at a cost of £5.2m. The majority of this would be funded from earmarked reserves, with a contribution of £1.6m from the Department for Education. At this stage it was acknowledged that additional funding would be required and it was anticipated that this will be in the region of another £5m. Following completion of the Director of Children's Services review, Cabinet agreed on the 31 March 2022 to provide £11.5m to fund the improvement journey. This will be funded from the Financial Resilience Reserve. The funds will be drawn down in two tranches; £5m in April 2022 and £6.5m from July 2022. A resources board has been established to monitor performance against this additional funding.

The Council's view is that implementing the actions within its Children's Social Care improvement plan should improve the issues identified within its non-statutory notice, including the cost of LAC and the quality of the service which the Council provides.

The chart below compares the cost of LAC across 30 other unitary authorities and illustrates that the costs are already high in Herefordshire, compared to the majority of other unitary authorities.



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Consistency with workforce strategy plans

Ensuring the Council's financial plans are consistent with its workforce strategy and plans ensures that workforce financial pressures are understood and reflected. However, we established that the Council did not have a workforce strategy in place until January 2021 and its workforce plans have yet to be developed.

Whilst we recognise that the Council is aware of the workforce issues within its Adult Social Care and Children's Social Care Services, the workforce plans which were in place for 2020/21 did not fully address all aspects of workforce planning, such as:

- analysis of current workforce
- future workforce needs
- analysis of current to future need and action required to achieve future need.

Capital Strategy

The capital programme for 2020/21 was £122m, as agreed in February 2020. In line with the Council's standard practice the budgets were re-profiled following quarter one actual outturn and were consequently reduced to £99m for the year. At the year end the capital budget had reduced further to £90m, as a result of the adjustments following the decision to stop the western by-pass and southern link roads.

The Council delivered £55m of its capital programme, 61% of the quarter four budget, but only 45% of the original budget agreed by Council in February 2020 and 55% of the re-profiled quarter one budget. Although the Council has delivered a number of significant projects - Marlbrook Primary School extension; construction of the Shell Store, part of the Enterprise Zone and the purchase of Maylord Orchards Shopping Centre.

It is the Council's formal approach to re-profile the budget in quarter one, as the capital budgets are often based on estimates prior to the final budget being confirmed at a later stage. Whilst we would anticipate an element of re-phasing of capital budget during the year for unforeseen circumstances, we would recommend that performance is monitored against the original budget and that the Council works towards ensuring the original budget more accurately reflects expect spend in year.

Performance against the capital budget is reported quarterly to Cabinet, who receive summary narrative and performance reports by individual projects. However, we note that the narrative report does not always provide an explanation for slippage and we suggest that, in future, Cabinet members should be provided with an explanation for slippage, including the underlying reasons and service implications for any project delays.

In 2021/22 officers have made us aware that Hereford has been successful in securing £22.4m to invest in the City's Town Investment Plan.

Financial sustainability

Managing financial resilience

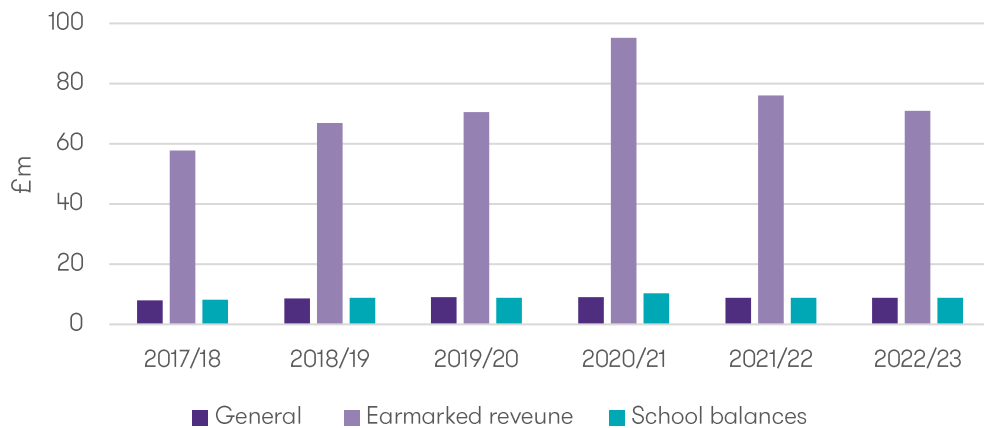
The general fund reserve is to cover uncertainties in future years' budgets, whereas earmarked reserves are set aside for specific purposes. Whilst the Council maintains its general fund reserve at a steady level, it has also used its earmarked reserves (its earmarked business resilience reserves) to meet future expenditure commitments, such as service overspends and shortfalls in planned savings.

The MTFS included the Council's reserves policy, which set out that general fund reserves should be maintained at 3-5% of the net budget requirement. At the close of 2020/21 the balance was £9.1m, 5.7% of the Council's net budget. The following charts show that in recent years the Council has increased its level of reserves (albeit, note that 2020/21 is high due to rate relief funding and central government COVID-19 funding). The chart opposite also illustrates that the total level of reserves is in line with the average when compared to other unitary authorities. Whilst these comparisons are reassuring, in line with best practice, the Council should quantify the financial assumptions and risks within its MTFS and formally assess if the level of reserves is sufficient to meet these possible future pressures.

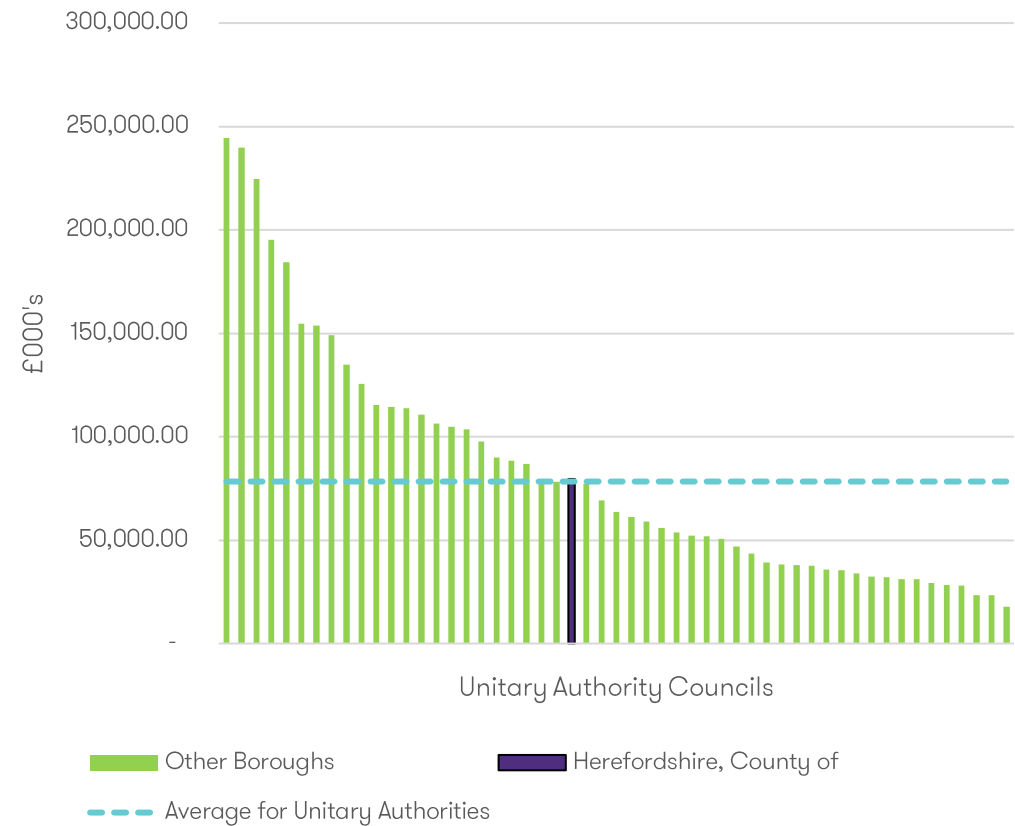
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Level of Reserves

2021/22 onwards are budget estimates



Total general fund and non-schools earmarked general fund reserves as at 31 March 2020



Financial sustainability

Auditor judgment

Like all public sector bodies, the Council continues to face financial challenges and uncertainty over the medium term. These challenges are compounded by an overspend and not being able to deliver its planned savings targets, the additional financial pressures of addressing service improvements within its Children's Social Care Services and contract management arrangements.

Going forward there will also be major national cost pressures from energy costs and inflation. Despite these challenges, we have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability. Although the Council has delivered an in-year deficit we consider that the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term, but will need to maintain effective financial control to ensure the position remains manageable.

We have, however, made some improvement recommendations based on our understanding of best practice.



Improvement recommendations



Financial sustainability

- 8 Recommendation** The Council should strengthen its financial planning. The Council should:
- increase the financial planning timeframe in the MTFS from one year to three or five years and ensure the longer horizon MTFS is reviewed and agreed by members
 - introduce scenario and sensitivity analysis within the MTFS

Why/impact Financial planning would be strengthened by extending the period of the MTFS. Scenario and sensitivity analysis can assist in illustrating the impact of uncertainty.

Summary findings The Council's MTFS currently covers current year. CIPFA best practice is for a financial planning horizon of current year plus five. Although longer term forecasts become inherently more difficult, a longer horizon would help identify years where significant budget gaps are forecast and allow longer term consideration of mitigating strategies. The MTFS should provide a basis on which members can better understand the Council's financial position and provide a catalyst for future policy and decisions.

Management comment A refresh of the MTFS is planned for July 2022 and this will include a 3-year projection of both income and expenditure. Sensitivity analysis will also be undertaken on significant costs which could be subject to volatility and/or uncertainty as well as income streams.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Financial sustainability

9 Recommendation	The Council should ensure narrative is provided to explain any slippage or shortfall in savings targets in the quarterly budget performance reports provided to Cabinet.
Why/impact	Detailed explanations should enable members to understand the reasons for any shortfalls and enable them to more effectively challenge the shortfall
Summary Findings	The progress against savings targets is reported quarterly to Cabinet and clearly highlight those savings yet to be delivered and at risk of non-delivery. However, a clear explanation is not always provided such as why slippage has occurred and if any mitigating actions are required.
Management comment	For 2021/22 the budget setting document included a specific appendix in relation to savings targets and this appendix was reported on during 21/22 through the in-year financial monitoring reports.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Financial sustainability

10 Recommendation	The Council should include its performance against budget for the Dedicated Schools Grant (DSG) within its quarterly Cabinet budget reports.
Why/impact	Whilst performance for the high needs block is positive this might not always be the case and members should be aware of the budget performance for the DSG.
Summary findings	The financial position on the DSG is not routinely reported to members and was not included within the quarterly budget reports. This information was discussed and agreed with the Schools Forum and budget decisions are taken by the relevant Cabinet Lead.
Management comment	The Council will include monitoring of the Dedicated Schools Grant financial performance in quarterly monitoring report from 2022/23.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations

Financial sustainability

11 Recommendation	The Council should quantify the financial assumptions and risks within its MTFS and assess if the level of reserves is sufficient to meet these possible pressures.
Why/impact	This is recognised good practice and enable the Council to better understand if its reserves are sufficient to meet possible risks and pressures.
Summary findings	The Council does not quantify the financial assumptions and risks within its MTFS and formally assess if the level of reserves is sufficient to meet these possible future pressures.
Management comment	This recommendation will be implemented in the refresh of the MTFS and ongoing. Thereafter financial assumptions will be clearly stated in any formal report and a specific section on financial risk will be included together with an explanation as to how those risks will be managed, including potential use of reserves.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Financial sustainability

12 Recommendation	The Council should develop more comprehensive and integrated workforce plans which support its recently developed workforce strategy.
Why/impact	A good workforce plan understands the current workforce, determines the future needs and aims to address any shortages/surpluses or skills and expertise mismatches. Financial plans can then take into account any workforce requirements.
Summary findings	The Directorate workforce plans which the Council had in place during 2020/21 did not fully consider all aspects of a good workforce plan: <ul style="list-style-type: none"> • Analysis of the current workforce • Future workforce needs • Workforce gaps mapped to future needs • Actions to monitor the shortfalls
Management comment	A review of the existing workforce plans will be undertaken during 2022/23 with a view to supplementing these with an overarching workforce plan aligned with the Workforce Strategy.



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations

Financial sustainability

13 Recommendation	The Council should report capital outturn against the original capital budget and ensure this budget more accurately reflects the expected capital spend in year.
Why/impact	Reprofiling the capital budget in quarter one does not provide an incentive to accurately set the budget at the start of the year.
Summary findings	It is standard practice to reprofile the capital budgets in quarter one. In 2020/21 the capital budget was reduced by £23m to £99m as a result, 19% reduction from the original budget.
Management comment	<p>The Council will increase its due diligence on proposed capital budgets to inform the next formally approved budget. However, the capital budgets, by their project nature, often include estimates of capital spend with the final budgetary requirements being confirmed at a slightly later stage. There is, therefore, likely to be an ongoing need to confirm the final budget requirements after the budget has been approved. It can become less meaningful to report against a budget which all stakeholders know does not reflect the final proposed cost of the project.</p> <p>For this reason, it is proposed that, where capital projects, can be quantified and confirmed prior to the start of the financial year, budgets will not be re-profiled. However, where capital budgets are purely estimates, this will be made clear in the budget setting report. It is proposed that these budgets will be re-profiled at 30 September but financial reporting to clearly show both the original and revised budget with detailed explanations for any proposed changes to the budget.</p>



The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations



Financial sustainability

14 Recommendation	The Council should ensure that quarterly performance reports to Cabinet provide an explanation for slippage of the capital programme.
Why/impact	Cabinet members require this information to be able to effectively challenge the forecast and outturn capital position.
Summary findings	The narrative report does not always provide an explanation for slippage and suggest that going forward the Cabinet members should be provided with an explanation for spillage. Where the slippage is as a result of delay in the project consideration should be give to providing an explanation for the delay.
Management comment	Cabinet members are briefed separately during their briefing sessions on project progress during the year and reasons for slippage but is recognised that this is an area of formal reporting which needs improving. The Council's finance and programme manager teams will work together to improve the explanation provided for slippage on capital projects by better utilising information contained within the Verto system.



The range of recommendations that external auditors can make is explained in Appendix C.

COVID-19 arrangements



Since March 2020 COVID-19 has had a significant impact on the population as a whole and how Council services are delivered.

We have considered how the Council's arrangements have adapted to respond to the new risks they are facing.

The Council began 2020/21 operating under emergency powers which it introduced on 23 March 2020. At the time a high number (99) emergency decisions were taken and these decisions were recorded as officer decisions and reported to the Council. In September 2020 the Council agreed changes to the Constitution to introduce COVID-19 interim standing orders.

The Council adopted new ways of working with staff working remotely where possible and as result enabling the Council to reduce its office footprint. Staff who worked in non-critical services were redeployed to support the emergency response, such as delivering emergency supplies and supporting the most vulnerable.

Governance arrangements were strengthened during the pandemic with the previous Chief Executive appointing two deputy chief executives to focus on the operational role of the chief executive whilst he focused on COVID-19 arrangements. The Council maintained a separate risk register for COVID-19 risk, the rationale for this being that it enabled a more flexible recording and response to the risks. This risk register was reported to Cabinet on four occasions and was provided as an appendices to the performance and budget monitoring reports.

The Council had planned to update and revise its business continuity plans in early 2020. However, as this coincided with the start of the COVID-19 pandemic the process halted, the Council's operating model changed and bespoke continuity plans were implemented with the focus on critical services. During 2020/21 no business continuity plans were developed and following a change in Chief Executive and internal re-structuring in 2021/22 it has been recognised that the previous business continuity plans are no longer valid. As a result a new critical service structure has been identified and updated business continuity plans are being developed.

In 2020/21 the Council received £163m in grant funding, to fund both the extra costs within the Council and to fund and support businesses and local residents. As a result the Council was able to pay over £100m to over 9,000 local businesses, £26m in business rate relief and over £1m in council tax relief. The Council did not change its payments processes to ensure efficient and speedy payments, instead introduced more payment runs and agreed to pay suppliers immediately, instead of waiting the normal 30 days.

COVID-19 posed a significant financial challenge to the Council's financial sustainability, and the Council monitored closely the increased costs throughout the year, at Directorate level and to the Management Board. Costs in the region of £9.9m were directly attributable to COVID-19, with increase in costs attributable to reductions in income, increased demand and increase in placement costs.

Actions taken in 2021/22

In June 2021 a detailed report was presented to the general Scrutiny Committee reflecting on how the Council had responded to the pandemic. This was an opportunity to reflect on what didn't go so well as well as what went well. As part of this report the Committee received details on digital campaigns, a breakdown of the COVID-19 grants received, emergency decisions made and the COVID-19 risk register.

In June 2021 Cabinet agreed its COVID-19 recovery plan with approval of £6.144m to deliver the immediate action to enable economic recovery. The recovery plan is be funded from central government set aside in an earmarked reserve and £2m from the Covid 19 Outbreak Management Fund.

Auditor judgment

During 2020/21 the officers and members of the Council have worked hard to support their local residents and business during these unprecedented times. Our review of how the Council responded to the COVID-19 pandemic has not identified any evidence of significant weaknesses in arrangements. Overall we concluded that the Council's response to the COVID-19 pandemic was appropriate and effective.

Opinion on the financial statements



Audit opinion on the financial statements

We gave an unqualified opinion on the financial statements on 10 December 2021.

Audit Findings Report

More detailed findings can be found in our Audit Findings Report, which was published and reported to the Council's Audit and Governance Committee on 24 November 2021.

Whole of Government Accounts

To support the audit of the Whole of Government Accounts (WGA), we are required to review and report on the WGA return prepared by the Council. This work includes performing specified procedures under group audit instructions issued by the National Audit Office.

Our work in this area remains outstanding while we wait the Audit Instructions from the National Audit Office.

Preparation of the accounts

The Council provided draft accounts in line with the national deadline and provided a good set of working papers to support it.

Grant Thornton provides an independent opinion on whether the accounts are:

- True and fair
- Prepared in accordance with relevant accounting standards
- Prepared in accordance with relevant UK legislation.



Appendices

Appendix A - Responsibilities of the Council



Role of the Chief Financial Officer (or equivalent):

- Preparation of the statement of accounts
- Assessing the Council's ability to continue to operate as a going concern

Public bodies spending taxpayers' money are accountable for their stewardship of the resources entrusted to them. They should account properly for their use of resources and manage themselves well so that the public can be confident.

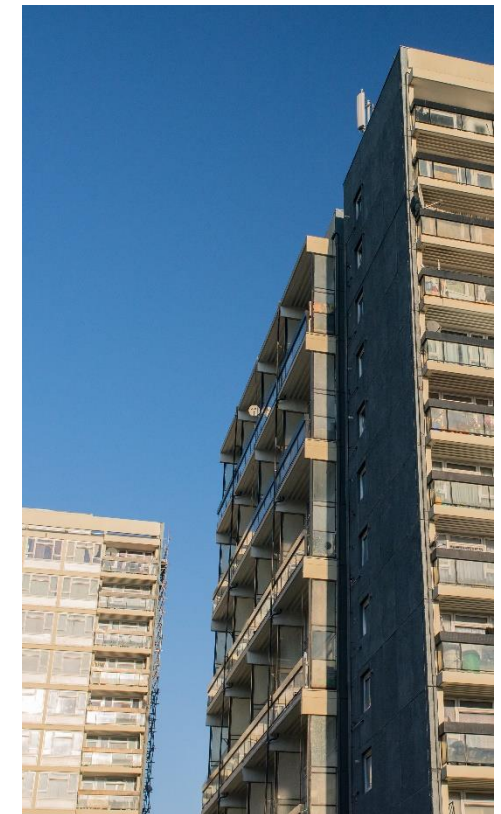
Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records and ensure they have effective systems of internal control.

All local public bodies are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. Local public bodies report on their arrangements, and the effectiveness with which the arrangements are operating, as part of their annual governance statement.

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Chief Financial Officer (or equivalent) is required to prepare the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom. In preparing the financial statements, the Chief Financial Officer (or equivalent) is responsible for assessing the Council's ability to continue as a going concern and use the going concern basis of accounting unless there is an intention by government that the services provided by the Council will no longer be provided.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.



Appendix B - Risks of significant weaknesses - our procedures and findings

As part of our planning and assessment work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. The risks we identified are detailed in the table below, along with the further procedures we performed, our findings and the final outcome of our work:

Risk of significant weakness	Procedures undertaken	Findings	Outcome
<p>Financial sustainability</p> <p>Whilst the Council has secured a sound financial base, recent events raise risks that the Council can not effectively plan and manage its resources to meet these financial pressures. Additional financial pressures have arisen as a result of:</p> <ul style="list-style-type: none"> • The court judgment for Children's Services • The write back of the by-pass costs 	<p>We reviewed:</p> <ul style="list-style-type: none"> • the financial pressures identified by management when setting the 2020/21 budget and the planned mitigations • the process for identifying the budget gaps in the medium term and the plans the Council has in place to address these shortfalls • The impact of the unforeseen financial pressures i.e. the costs of setting up the Improvement Board in Children's Services and the reversal of the by-pass decision • the significant in year overspends such as Looked After Children's Services. 	<p>Despite the financial challenges, we have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability. Although the Council has delivered an in-year deficit and faces ongoing financial pressures we consider that the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term, but will need to maintain effective financial control to ensure the position remains manageable.</p>	<p>Appropriate arrangements in place seven improvement recommendations raised.</p>
<p>Governance</p> <p>Risk that Council has not made informed decisions and is not effectively managing its risks, as reflected in previous years VfM audits. In 2020/21 there were changes to the officer leadership team which will be finalised in 2021/22.</p>	<p>We reviewed:</p> <ul style="list-style-type: none"> • how the Council responds to the independent review of its public realm contract • the Council's response to the internal review of the HCCTP • the impact that the court judgment had had on the Children's Services Department and review the Council's actions taken to date • considered the impact of the changes in the management team in 2020/21 on the governance arrangements 	<p>Whilst we have not identified any significant weaknesses within the governance section we recognise that failures in the leadership and management of children's services have had an impact on the Children's Social Care Services and the Council's ability to effectively meet its statutory duties.</p>	<p>Appropriate arrangements in place and two improvement recommendations raised.</p>
<p>Economy, Efficiency and effectiveness</p> <p>Risk that the Council is not using its cost and performance data to improve the way that it manages and delivers its services.</p>	<p>We reviewed:</p> <ul style="list-style-type: none"> • the Council's response to the internal review of the HCCTP • how the Council is responding to the regulatory engagement regarding Children's Services. 	<p>Although we established that the Council has begun the improvement journey the arrangements in place during 2020/21 had not yet improved its Children's Social Care Services and its management of its public realm contract with Balfour Beatty Living Places Limited.</p>	<p>Appropriate arrangements not in place, three key recommendations and five improvement recommendations raised.</p>

Appendix C - An explanatory note on recommendations

A range of different recommendations can be raised by the Council's auditors as follows:

Type of recommendation	Background	Raised within this report	Page reference
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report.	No	
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.	Yes	Pages 7, 8 and 9
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council's arrangements.	Yes	Pages 17 – 21 Pages 25 and 26 Pages 32 - 38

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Appendix D - Use of formal auditor's powers

We bring the following matters to your attention:

Statutory recommendations

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly

We did not make any statutory recommendations

Public interest report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish their independent view.

We did not issue any public interest reports

Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

We did not apply to the Courts

Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- is about to enter an item of account, the entry of which is unlawful.

We did not issue any advisory notices

Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

We did not apply for judicial review





Title of report: Progress report on internal audit activity

Meeting: Audit and governance committee

Meeting date: Tuesday 10 May 2022

Report by: Director of Resources and Assurance / Head of Internal Audit

Classification

Open

Decision type

Non-key

Wards affected

(All Wards)

Purpose

To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.

To enable the committee to monitor performance of the internal audit team against the approved plan.

To assure the committee that action is being taken on risk related issues identified by internal audit.

Recommendation(s)

That:

- (a) The performance against the approved plan be reviewed and any areas for improvement identified;**
- (b) the assurances and recommendations given in the report are reviewed and appropriate recommendations are provided to the executive on areas for priority implementation;**
- (c) To note the Corporate Fraud Update: and**
- (d) To note the Hereford City Centre Transport Package Special Investigation Summary Report**

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
 Andrew Lovegrove, Director of Resources and Assurance email: Andrew.Lovegrove@herefordshire.gov.uk

Key considerations

2. The internal audit progress report is attached at appendix A. In the period covered by the report, one priority 1 action and sixteen priority 2 actions have been agreed for audits completed in 2021-22.
3. A glossary of terms is also provided in the report
4. This is monitored by acceptance by management of audit recommendations and progress updates in implementing the agreed action plans. In addition, audit recommendations not accepted by management are reviewed and progress to an appropriate recommendation to cabinet if it is considered that the course of action proposed by management presents a risk in terms of the effectiveness of or compliance with the council's control environment.

Community impact

5. 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.

Environmental impact

6. The 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.
7. Whilst this is a decision on back office functions 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

8. 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.
9. 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

10. None arising from the recommendations; any additional recommendations made by the committee will be considered by the relevant manager or cabinet member and further financial recommendations will be channelled through the appropriate governance system

Legal implications

11. None

Risk management

12. 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.
13. 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

None

Appendices

Appendix 1 - SWAP Internal Audit plan progress report 2021-22

Appendix 2 - Hereford City Centre Transport Package Special Investigation Summary Report

Appendix 3 - Investigation Findings – Control Weaknesses and Agreed Management Actions

Background papers

None identified

Appendix 1

Herefordshire Council

Report of Internal Audit Activity - 2021/22 Plan Progress - as of 21st April 2022

- Internal Audit Definitions (Appendix B)
- Internal Audit Progress (Appendix C)
- Counter Fraud Update (Appendix D)

Contents

The contacts at SWAP in connection with this report are:

Dave Hill

Chief Executive

Tel: 01935 848540

david.hill@swapaudit.co.uk

Jacqui Gooding

Assistant Director

Tel: 07872500675

jacqui.gooding@swapaudit.co.uk

Amy Probert

Principal Auditor







Tel: 07801672647

amy.probert@swapaudit.co.uk

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Internal Audit Plan Progress 2021/22

The Headlines for audits completed to date for 2021/22

	No High Corporate Risks identified to date.
	One priority 1 finding identified in the Hereford City Centre Transport Package Special Investigation. The summary report is included as part of this quarterly progress update.
	52 audits from the 2021/22 Internal Audit Plan are now complete. Includes assurance, advisory and follow up reviews.
	Thematic Findings <ul style="list-style-type: none"> • Data quality – gaps in data, inefficient and onerous processes to record data, reliance on spreadsheets that are not up to date. • Procedure Documents/Policy – ensuring documents are up to date and readily accessible. • Coding of grant income and expenditure – inaccuracies and inconsistencies identified.
	Continued sign off, of grant certifications as a result of additional COVID related grant funding.
	Fraud Risk Assessment now finalised.

Internal Audit Assurance Opinions

Substantial	3
Reasonable (inc. Grant Certifications)	32
Limited (inc. Grant Certification)	7
No Assurance	0
Other	10
Total	52

Internal Audit Agreed Actions

Priority 1	1
Priority 2	22
Priority 3	39
Total	62

Internal Audit Plan Progress 2021/22

Our audit activity is split between:

- Operational Audit
- School Themes
- Governance Audit
- Key Control Audit
- IT Audit
- Grants
- Other Reviews



Role of Internal Audit

The Internal Audit service for Herefordshire Council is provided by SWAP Internal Audit Services (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Chartered Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and the CIPFA Local Government Application Note. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 16 March 2021.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

- Operational Audit Reviews
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Review

Outturn to Date – 2021/22



Internal Audit Work Programme 2021/22

The schedule provided at Appendix C contains a list of all audits agreed:

- for the quarter 1 2021/22 plan presented to this committee at its meeting on 16th March 2021.
- for the quarter 2 2021/22 plan presented to this committee at its meeting on 28th June 2021.
- for the quarter 3 2021/22 plan presented to this committee at its meeting on 27th October 2021
- for the quarter 4 2021/22 plan presented to this committee at its meeting on 25th January 2022.

It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed. Each completed assignment includes its respective "assurance opinion" rating together with the number and relative ranking of recommendations that have been raised with management. In such cases, the Committee can take assurance that improvement actions have been agreed with management to address these.

Internal Audit Plan Progress 2021/22

Outturn to Date – 2021/22



Internal Audit Work Programme 2021/22

The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as detailed in Appendix B of this document.

To assist the Committee in its important monitoring and scrutiny role, in those cases where weaknesses have been identified in service/function reviews that are considered to represent significant service findings (priority 1 or 2), a summary of the key audit findings is given as part of this report. In circumstances where findings have been identified which are considered to represent significant corporate risks to the Council, due to their importance, these issues are separately summarised.

Audits Completed

This is the progress report as of the 19th of April 2022. This is the fourth update for the 2021/22 audit plan. Twenty-seven audits have been completed since my last update, five of these are follow ups (further information regarding the follow ups are outlined on pages 10 and 11). Three audits are at draft report and there are eight audits in progress.

The audits completed since my last update are outlined below with their assurance rating and audit objective:

Audit	Assurance	Audit Objective
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5389.	Reasonable – Grant Certification	To provide assurance that the conditions of the Local Authority Community Testing Funding Grant Determination 2020/21: Nos 31/5389, 31/5661, 31/5729, 31/5772 and 31/5828 are adhered to and that all expenditure claimed is eligible within the scheme.
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5661		
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5691		
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5729		
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5772		
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5828		

Internal Audit Plan Progress 2021/22

Outturn to Date – 2021/22



Internal Audit Work Programme 2021/22

Audit	Assurance	Audit Objective
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5875, 31/5939, and 31/5960	Reasonable – Grant Certification	To provide assurance that the conditions of the Local Authority Community Testing Funding Grant Determination 2020/21: Nos 31/5875, 31/5939, and 31/5960 are adhered to and that all expenditure claimed is eligible within the scheme.
Oral Health Needs Assessment Plan	Advisory	To assess the progress made on the implementation of the recommendation of the Herefordshire Oral Health Needs Assessment (OHNA) to target the improvement of resident's oral health in the county.
Property Flood Resilience Support Scheme (Bellwin/Resilience Management) Quarterly Review – Quarter 4 (Yearly Report)	Reasonable – Grant Certification	To provide assurance that Herefordshire Council has complied with DEFRA Property Flood Resilience Recovery Support Scheme (2020) Local Authority Guidance April 2020, in the authorisation of owner's expenditure on their property.
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5309	Reasonable – Grant Certification	To provide reasonable assurance that the Statement of Grant Expenditure and/or Grant Claim, in all material respects, fairly presents the eligible expenditure for the period in accordance with the definitions and conditions of the grant offer letter.
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5385		
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5435		
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5668		
Pool Cars	Limited	To ensure that pool cars usage is in accordance with Council guidance, that usage is appropriately monitored and justifiable, and that the current number of vehicles in the fleet is required.
Disaster Recovery	Limited	To ensure that the Council has identified the IT systems and data critical to the delivery of its services and made sufficient provision to recover those systems and data from a partial or total loss of computing and business services in a timely and organised manner.

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Internal Audit Plan Progress 2021/22

Outturn to Date – 2021/22



Internal Audit Work Programme 2021/22

Audit	Assurance	Audit Objective
Risk Maturity	Advisory	To provide a high-level corporate view of risk maturity within the organisation. The SWAP Risk Maturity Tool has been completed as a facilitated self-assessment in liaison with the Head of Corporate Performance, identified risk lead officers and directorate performance officers.
Main Accounting	Substantial	To review the key controls to give assurance that the financial records are complete and accurate.
Customer Services	Reasonable	To assess the base-line position of how Customer Services handles enquiries, tracks queries passed to service areas and responds to stakeholders' feedback and whether this is completed in a timely manner.
Green Homes Grant	Limited – Grant Certification	The objective of the audit is to provide assurance that the terms of the Green Homes Grant Local Authority Delivery Grant Determination (31/5187) are adhered to.
Supporting Families Q4 (Year End Report)	Reasonable – Grant Certification	To ensure that Payment-by-Results claims are made in accordance with the MHCLG Supporting Families Programme 2021/22.
Fraud Risk Assessment	Advisory	In Liaison with the HC Counter Fraud specialist, SWAP met with key officers across the Council to support them in their assessment of the fraud risk the local authority is exposed to.
Herefordshire City Centre Transport Package – Special Investigation	Special Investigation	The scope of the investigation is to review the HCCTP against the five objectives: <ol style="list-style-type: none"> 1. Review of assurances and reporting provided for financial spend and budget position throughout the progression of the project to officers, members and relevant Committees by officers and members. 2. Review of events that led to the purchase of additional land and increased costs of land. 3. Review of events to identify the key points/events that led to the cost escalation. 4. Review of information (reporting) provided to the LEP in regard to the achievement of deliverables and the spend of the £16m funding provided. 5. Review of compliance with the recommendations from the Blueschool House Refurbishment investigation

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Internal Audit Plan Progress 2021/22

Summary of significant High corporate risks



Significant Corporate Risks 2021/22

We provide a definition of the three Risk Levels for Corporate risk applied within audit reports. For those audits which have reached report stage through the year, I will report risks we have assessed as 'High'.

In this update there are no final reports included with 'High' corporate risks.

SWAP Performance - Summary of Limited Opinions



Summary of Limited Assurances and Significant Service Findings (Priority 1 and 2) 2021/22

Of the twenty-one audits completed this quarter the assurance levels were as follows:

Substantial Assurance	Reasonable Assurance	Reasonable Grant Certification	Limited Grant Certification	Limited Assurance	Advisory
1	1	13	1	2	4

The three audits that received limited assurance were Pool Cars, Disaster Recovery and Green Homes Grant. Further details of the priority two findings in these audits are outlined below.

Pool Cars

Three priority 3 actions and three priority 2 actions were agreed as part of the Pool Cars Audit. Priority 2 actions identified as follows:

1. An action was agreed to upgrade and add to the existing intranet-based pool car booking system to improve the control framework in relation to the pool car booking process. This will include automatic system notifications to prompt users to complete pool car usage data. New guidance will be available with users required to confirm they have read and agree to the guidelines. The aim is to link the booking system to the relevant cost codes on Business World so that automatic recharges are raised and paid by the relevant service. This action will increase efficiencies in process and will ensure there are no gas in data recorded ensuring ensure recoding is correct.

Responsible Officer: Sustainability and Climate Change Officer Priority: 2 Timescale: 30th April 2022

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SWAP Performance - Summary of Limited Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit and Governance Committee.



Summary of Limited Assurances and Significant Service Findings (Priority 1 and 2) 2021/22

2. The audit identified there were missing vehicle mileage sheets and recharges since April 2019. An action was agreed to identify all available mileage sheets and compare these to the booking system. Any identified gaps will be researched fully to ensure that that all gaps in mileage are accounted for as fully as possible.

Responsible Officer: Sustainability and Climate Change Officer Priority: 2 Timescale: 22nd April 2022

3. The audit identified that the current block booking of a pool car to the Clerk of Works does not meet the HMRC definition of a pool car and therefore needs to be reported to HMRC to address relevant tax implications. The definition of a pool care must be adhered to should consideration be given in future to block booking cars for teams / services.

As part of the agreed action it has been identified that the Clerk of Works is an agency staff, and therefore is not the responsibility of the Council regarding HMRC. Pool car use guidance will be amended to refer to block bookings / long term use, and the limitations of this with guidance to be taken from HR/Payroll on the exact wording.

Responsible Officer: Engineering Manager and Sustainability and Climate Change Officer
Priority: 2 Timescale: 22nd April 2022

Disaster Recovery

Two priority 2 actions and three priority 3 actions were agreed as part of the audit. The priority 2 findings were as follows:

1. The Council must ensure all critical services and supporting systems identified as part of its recent review of business continuity (BC) arrangements are detailed on the Council's Application Masters List. The priority of all systems listed should detail their priority for recovery and hence provide a link to the Service Level Agreement (SLA) with Hoople Ltd. The back-up requirements for all systems identified on this list as processing sensitive data should also be confirmed and updated as necessary. For those systems that do require back up but where it was unclear if they were managed by Hoople Ltd (and therefore potentially not covered by the SLA), management need to obtain assurance that back up and restoration services will meet the Council's system recovery requirements. In future all software procurement whether through Hoople Ltd or independent of Hoople Ltd should be supported by clear back-up and recovery contractual terms. For existing systems where these terms are unclear the contact terms will be reviewed at renewal.

SWAP Performance - Summary of Limited Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit and Governance Committee.



Summary of Limited Assurances and Significant Service Findings (Priority 1 and 2) 2021/22

Responsible Officer: Director of Transformation (HC) in liaison with Head of Systems Delivery (Hoople).
Priority: 2 Timescale: 30th June 2022

2. Backup and recovery requirements for software services provided by Hoople Ltd are determined at the time of their implementation and are not subject to review unless there is a material change to the configuration or deployment model, or a problem is identified with the system leading to a material change. The above Priority 2 action was agreed to establish whether the backup and restoration arrangements (as detailed in the SLA with Hoople) adequately supported the BC requirements of all Hoople in-scope applications and, in addition to this, the Council will:

- Confirm the adequacy of Disaster Recovery (DR) testing to demonstrate compliance against the SLA recovery (priority) targets, for all systems with due regard to the critical services identified.
- With Hoople, undertake scenario-based test situations to inform current DR planning to reference the loss of all applications, loss of all Hoople supported services at all clients etc.
- For any system that is not covered by the SLA, confirm the adequacy of their DR arrangements including the testing for critical and non-critical services.
- Confirm the adequacy of DR decision making processes for those systems that are not supported by Hoople. Options include scenario-based planning / tabletop DR exercises for management. Such scenarios could reference the potential loss of the system itself, supporting hardware and so on.

Responsible Officer: Director of Transformation (HC) in liaison with Head of Systems Delivery (Hoople).
Priority: 2 Timescale: 30th September 2022

Green Homes Grant

One priority 2 action and two priority 3 actions were agreed as part of the audit. The priority 2 finding identified that the final expenditure figure has not yet been finalised as the final invoice from the contractor is in dispute. This has meant that the unspent grant funding as at the 23rd of March 2022 had not been returned to BEIS. With legal advice arrangements to repay the majority of the unspent grant funding need to be finalised immediately, with funding returned to BEIS. A Cabinet Member Decision was due to be taken on 14th April 2022 with regard to the repayment of funding. Further Legal advice to be sought if no response from contractor by 5pm 6th April 2022.

Responsible Officer: Senior Project Manager. Priority: 2 Timescale: 30th April 2022

SWAP Performance - Summary of Limited Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit and Governance Committee.



Summary of Limited Assurances and Significant Service Findings (Priority 1 and 2) 2021/22

Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5309 (January), 31/5385 (February), 31/5435 (March and April) and 31/5668 (May, June and July).

A further two priority 2 findings were identified in the audit report for the Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5309 (January), 31/5385 (February), 31/5435 (March and April) and 31/5668 (May, June and July).

The priority 2 actions were agreed as follows:

1. Errors in the submissions to DWP require correcting. These included:
 - errors in the total spend to date column in the April 2021 submission, these did not alter the total claim but rather the figures per element of the scheme are incorrect.
 - errors in the total spend to date column in the July submission. The submission figure was £2,644.21 less than the figure that the Council has provided. This is not to say the Council has not spent this money more than the actual calculations within the submission document do not appear to be correct.

The former Head of Corporate Finance agreed to correct these errors in the subsequent submission to the DWP.

Responsible Officer: Head of Corporate Finance. Priority: 2 Timescale: Complete

2. A reconciliation of funds had not been completed by the Head of Corporate Finance. This was completed by the time the final report was issued and audit were informed that the funding was currently in excess of spend.

Responsible Officer: Head of Corporate Finance. Priority: 2 Timescale: Complete

Hereford City Centre Transport Package (HCCTP)

One priority 1 action and 8 priority two actions have been made as part of the Hereford City Centre Transport Package investigation. The summary report has been included as part of this report and therefore a summary of findings is not provided here.

Internal Audit Plan Progress 2021/22

Follow Up audits are completed where the auditor could only provide limited assurance.



Follow Up Audits

Follow Up audits are completed where the Auditor could only provide limited assurance. The follow-up audit is to provide assurance to the Director, Senior Management and the Audit and Governance Committee that the key risks have been mitigated to an acceptable level. Evidence is obtained to demonstrate implementation and progress made in relation to all 2020/21 priority 1 and 2 recommendations. For the priority 3 recommendations progress reported is based on self-assessment by relevant officers. Where a key control audit received Reasonable or Substantial assurance, the key control is included in the plan to follow up on all recommendations to provide assurance that action has been taken to address the recommendations. For key control follow up audit evidence is obtained to demonstrate implementation and progress for all recommendations.

Five key control follow up audits have been completed this quarter, the progress of actions is shown below:

Audit	Priority Rating	Complete	In Progress	Not Started
Accounts Receivable (Debtors)	Priority 1	0	0	0
	Priority 2	0	1	0
	Priority 3	2	0	0
Accounts Payable (Creditors)	Priority 1	0	0	0
	Priority 2	0	0	0
	Priority 3	2	0	0
Council Tax	Priority 1	0	0	0
	Priority 2	0	0	0
	Priority 3	2	1	0
National Non Domestic Rates (NNDR)	Priority 1	0	0	0
	Priority 2	0	0	0
	Priority 3	0	1	0
Housing and Council Tax Benefits	Priority 1	0	0	0
	Priority 2	0	0	0
	Priority 3	1	1	0

Follow Up audits are completed where the auditor could only provide limited assurance.



Follow Up Audits

Details of the actions deemed to be in progress are outlined below:

Accounts Receivable – Debt Recovery Policy and Reporting Processes

Further work is required to the reporting process and currently the team are focusing on reporting per specific area to provide better debt reporting. Once completed a procedure document will be drafted to support the process.

Changes to the Debt Recovery Policy have been made and is now awaiting approval.

Priority: 2 Original target date: 30th November 2021 Revised target date: 31st May 2022

Council Tax and NNDR – Valuation Office Agency (VOA) Update Process

The notification to the VOA has been kept to 10 days wherever possible. Due to other high priority work the Planning Project has not yet reviewed the full process to identify if tasks could be transferred to the administration team to reduce double handling of work and improve turnaround times. However, the team are working through some of the processes and are identifying ways to make improvements.

Priority: 3 Original target date: 31st December 2021 Revised target date: 30th June 2022

Note: 2 recommendations were made, one for Council Tax and one for NNDR.

Housing and Council Tax Benefit – Procedures/Flowchart Documents

The flowchart has been amended and signed off appropriately. The Checklist is held up in the approval stages but will be completed by the end of the financial year.

Priority: 3 Original target date: Revised target date: 31st March 2022

Internal Audit Plan Progress 2021/22

Added Value

Extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something more while adding little or nothing to its cost.



Added Value

Primarily, Internal Audit is an assurance function and will remain as such. However, as we complete our audit reviews and through our governance audit programmes across SWAP, we seek to bring information and best practice to managers to help support their systems of risk management and control.

The SWAP definition of “added value” is “it refers to extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something "more" while adding little or nothing to its cost”.

The following cross comparison reports have been shared across the Partnership:

- Licensing – Member Training
- Customer Services

Internal Audit Plan Progress 2021/22

SWAP Performance - Summary of Audit Opinions

At the conclusion of audit assignment work each review is awarded a "Control Assurance Definition";

- Substantial
- Reasonable
- Limited
- No

We also undertake Advisory / Non-Opinion work on a consultancy basis where we have been asked to look at a specific area of potential concern.

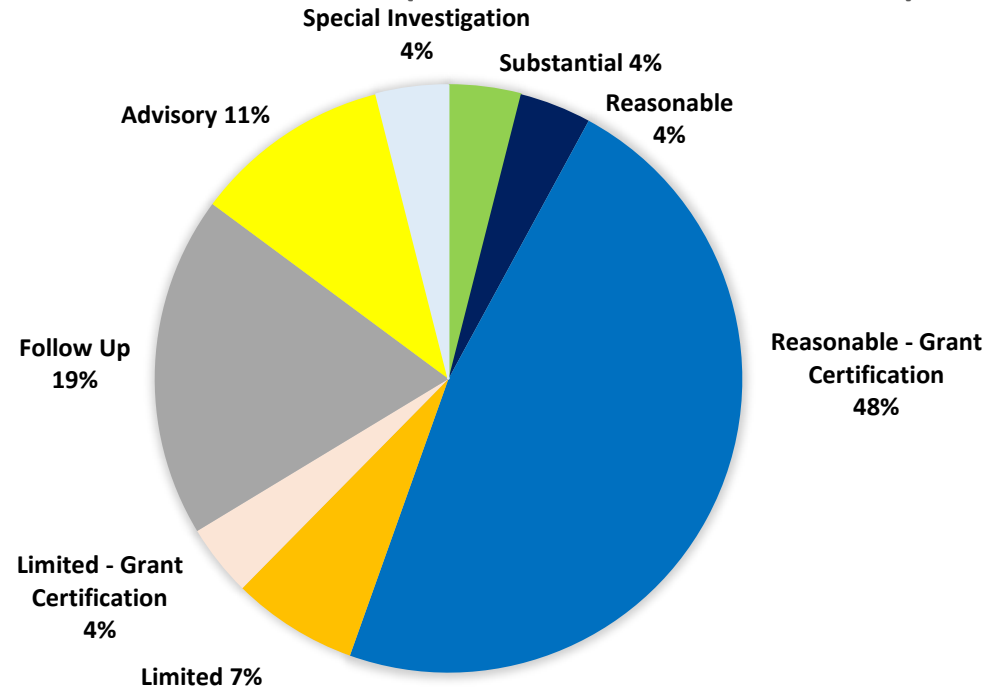
Where we follow up on a previous adverse audit opinion the opinion is stated as follow up.



Summary of Audit Opinion 2021/22

A total of twenty-seven audits (including five follow ups) have been finalised since our previous update (January 2022). The opinions offered are summarised below in Chart 1.

CHART 1: TWENTY SIX AUDITS COMPLETED BY ASSURANCE CATEGORY (FOR THE MAY 2022 UPDATE)



Internal Audit Plan Progress 2021/22

SWAP Performance - Summary of Audit Opinions

At the conclusion of audit assignment work each review is awarded a "Control Assurance Definition";

- Substantial
- Reasonable
- Limited
- No

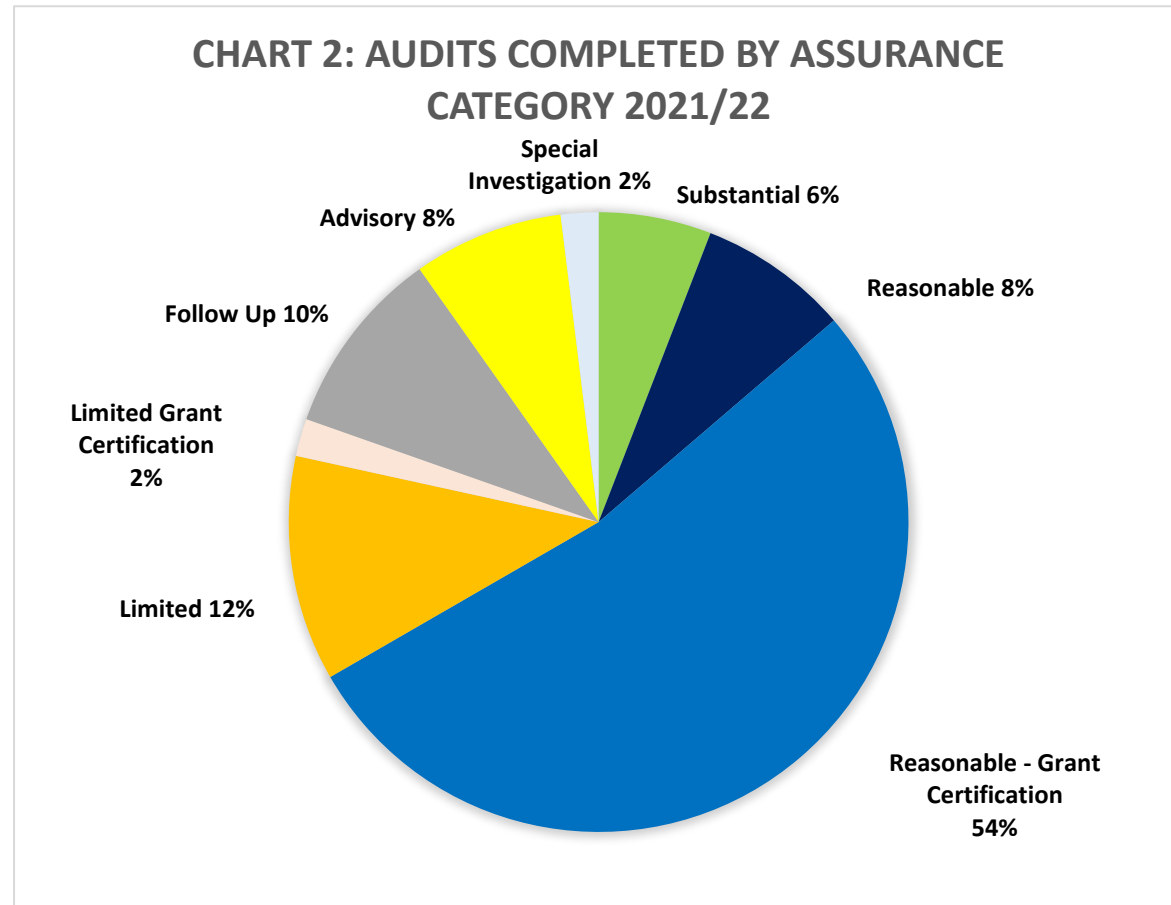
We also undertake Advisory / Non-Opinion work on a consultancy basis where we have been asked to look at a specific area of potential concern.

Where we follow up on a previous adverse audit opinion the opinion is stated as follow up.



Summary of Audit Opinion 2021/22

Chart 2 shows a summary of the opinions offered for 2021/22 to date.



Internal Audit Plan Progress 2021/22

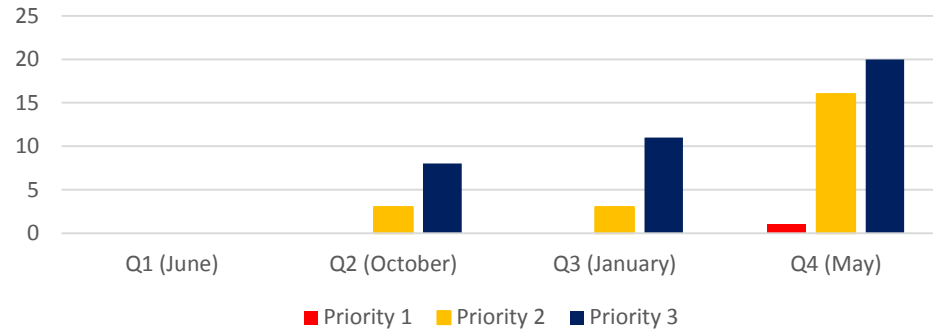
Summary of Agreed Audit Actions by Priority

We rank the agreed actions on a scale of 1 to 3, with 3 being medium or administrative concerns to 1 being areas of fundamental concern requiring immediate corrective action.



Summary of Agreed Actions by priority per update for 2021/22

Summary of Agreed Actions by priority per update



Internal Audit Plan Progress 2021/22

We keep our audit plans under regular review to ensure that we are auditing the right things at the right time.



Approved Changes to the Audit Plan

Unplanned work, special reviews or projects carried out on a responsive basis are requested through the Chief Finance Officer (Section 151 Officer). As new and emerging risks are identified, any changes to the plan will be subject to the agreement of the Chief Finance Officer (Section 151 Officer) and reported to this Committee.

Since the Q4 Audit plan was presented and approved by the Committee on 25th January 2022 there has been two requests for additional audits:

- South Wye Transport Package LEP Settlement
- Revenue Grant Determination (Ring-fenced) Protect and Vaccinate Grant Determination 2021/2022 No 31/5912

To complete the request for additional work the following audits have been deferred into quarter 1 of the 2022/23 plan:

- Schools Thematic Audit
- Condition Funding Grant Determination (2021): No 31/5501

Please also note an error in the previous internal progress report. The leavers audit was shown to be completed in quarter 4 of 2021/22 when it should have been deferred to quarter 1 of the 2022/23 plan.

Conclusion



Conclusion

Since my last update twenty-seven audits have been completed. The total audits completed for 2021/22 is fifty-two. There are eight audits in progress for 2021/22 and three at draft report.

For the twenty-seven audits completed and reported in this update:

- five were follow up audits,
- one audit returned a substantial assurance,
- one returned a reasonable assurance,
- thirteen audits were reasonable grant certification
- two were limited assurance
- one was limited grant certification
- three were advisory and
- one was a special investigation.

One priority 1 finding and a total of 16 priority 2 findings were identified across the two audits that received limited assurance (Pool Cars and Disaster Recovery), the limited grant certification (Green Homes Grant) and the Hereford City Centre Transport Package (HCCTP) Special Investigation.

We have noted continued thematic findings regarding procedure documents/policies with control weaknesses identified across the following audits: Customer Services, Local Authority Test and Trace Support Payment Scheme Funding Grant Determinations 2020/21, Main Accounting and Treasury Management relating to updating documents and ensuring documents are consistently accessible. Further thematic finding relating to data and spreadsheet management have been identified across Customer Services, Pool Cars and Disaster Recovery. Findings relating to data include gaps in data, inefficient and onerous processes and reliance on spreadsheets that do not appear to be up to date.

A further thematic finding was identified across grant work completed relating to the need to code income and expenditure for grants accurately and consistently.

Conclusion



Conclusion

At this time, it is thought that we will complete six of the eight audits that are currently in progress to form part of the 2021/22 annual opinion. It is likely these three audits will roll forward to next year's plan due to the reasons outlined below:

- Software Asset Management to be replaced with Incident Management Review – request to change scope of audit has created delays
- Infection Control and Testing – delays in scoping the audit with client.
- Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5789 (October, November, and December) – the last submission to the Department of Work and Pensions will take place on the 6th of May after this testing can be completed.

Other notable delays on audits in progress are as follows:

- Direct Payments – request from client to pause work due to additional pressures placed on staff as a result of year end processes.
- Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5789 (October, November, and December) – the last submission to the Department of Work and Pensions will take place on the 6th of May after this testing can be completed.
- Protect and Vaccinate Grant Determination – extension of deadline by the DLUHC (Department for Levelling Up and Housing Communities).

At the close of each audit review a Customer Satisfaction Questionnaire is sent out to the Service Manager or nominated officer. The aim of the questionnaires is to gauge satisfaction against timeliness, quality, and professionalism. A score of 95% would reflect the fact that the client agreed that the review was delivered to a good standard of quality i.e., agreed with the statement in the questionnaire and satisfied with the audit process and report. For 2021/22 the feedback score is 100%.

At the conclusion of audit assignment work each review is awarded a “Control Assurance Definition”;



Audit Framework Definitions

Control Assurance Definitions

- Substantial
- Reasonable
- Limited
- No
- Advisory

Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

Advisory Report – In addition, to our opinion-based work we will provide consultancy services. The advice offered by Internal Audit in its consultancy role may include risk analysis and evaluation, developing potential solutions to problems and providing controls assurance. Consultancy services from Internal Audit offer management the added benefit of being delivered by people with a good understanding of the overall risk, control and governance concerns and priorities of the organisation.

Internal Audit Framework Definitions

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Recommendations are prioritised from 1 to 3 on how important they are to the service/area audited. These are not necessarily how important they are to the organisation at a corporate level.



Audit Framework Definitions

Risk	Reporting Implications
	In addition to the corporate risk assessment, it is important that management know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. Each recommendation has been given a priority rating at service level with the following definitions:
Priority 1	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Each audit covers key risks. For each audit a risk assessment is undertaken whereby with management risks for the review are assessed at the Corporate inherent level (the risk of exposure with no controls in place) and then once the audit is complete the Auditors assessment of the risk exposure at corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Definitions of Risk

Risk	Reporting Implications
	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						2020/21 Audits		
Education Health Care Plans – Preparation for Adulthood			Complete	Limited	4	0	3	1
Payroll			Complete	Limited	2	0	1	1
Contract Management - BBLP			Complete	Limited	5	0	1	4
Corporate Centre (including ICT)								
Risk Maturity (was Risk Management)	Linked to all risks	1	Complete	Advisory	-	-	-	-
Economy and Place								
Development Regeneration Programme	EP.12 (July 2020)	1	Complete	Reasonable	1	0	0	1
Climate Change	EP.15 (July 2020)	1	Complete	Reasonable	3	0	0	3
Bus Service Support Grant Restart Scheme Tranches 6 and 7 (funding to May 2021) 31/5621	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Dedicated Home to School and College Transport Grant – Spring Term 31/5268	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Children’s and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 1 (<i>previously referred to as Troubled Families</i>)	Grant Certification	1	Complete	Reasonable – Grant Certification	1	0	0	1

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Internal Audit Work Plan Qrt 1 2021-22 (approved 16th March 2021)

Additional Audits for Quarter 1								
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5389.	Grant Certification	1	Complete	Reasonable – Grant Certification	2	0	0	2
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5309 (January)	Grant Certification	1	Complete	Reasonable – Grant Certification	4	0	2	2
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5385 (February)	Grant Certification	1	Complete	Reasonable – Grant Certification				
Funding for Travel Demand Management 2020/21 – No 31/5127	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Car Park Signage Procurement	At request of Chief Finance Officer	1	Complete	Briefing Paper	-	-	-	-
Property Flood Resilience Support Scheme (Bellwin /Resilience Management) Quarterly Review – Quarter 1 (Yearly Report)	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0

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Internal Audit Work Plan Qrt 2 2021-22 (approved 28th June 2021)

Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ← 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Fraud Risk Assessment		2	Complete	Advisory	-	-	-	-
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 2 (Yearly Report)	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Dedicated Home to School and College Transport Grant – Summer Term (1 st half) 31/5483	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Local Transport Block Funding	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Bus Subsidy Grant	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Adults and Communities								
Direct Payments	Identified as a fraud risk	2	In Progress					
Customer Services	-	2	Complete	Reasonable	3	0	0	3
Children's and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 2 (<i>previously referred to as Troubled Families</i>)	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Additional audits for Q2								
Additional Home to School Transport – Summer Term (2 nd half until 25 June 2021) 31/5568	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Home to School Transport – Summer Term (2 nd half 28 th June till end of Summer Term) 31/5678	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0

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Internal Audit Work Plan Qrt 2 2021-22 (approved 28th June 2021)

Herefordshire City Centre Transport Package – Investigation	Investigation	2	Complete	Special Investigation	11	1	8	2
Green Homes Grant: Local Authority Delivery Grant Determination 31/5187	Grant Certification	2	Complete	Limited – Grant Certification	3	0	1	2
Pool Cars		2	Complete	Limited	6	0	3	3
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5435 – (March and April)	Grant Certification	2	Complete	Reasonable – Grant Certification	The actions have been outlined in the audit in the Q1 plan above.			
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5668 – (May, June, July)	Grant Certification	2	Complete	Reasonable – Grant Certification				

Internal Audit Work Plan Qrt 3 2021-22 (approved 27th October 2021)

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Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Accounts Payable – follow up of actions from 2020-21 and areas not tested in 2020-21		3	Complete	Follow Up	-	-	-	-
Accounts Receivable – follow up of actions from 2020-21 and areas not tested in 2020-21		3	Complete	Follow Up	-	-	-	-
Main Accounting		3	Complete	Substantial	3	0	0	3
Treasury Management		3	Complete	Substantial	2	0	0	2
Council Tax – follow up of actions from 2020-21 and areas not tested in 2020-21		3	Complete	Follow Up	-	-	-	-
National Non-Domestic Rates – follow up of actions from 2020-21 and areas not tested in 2020-21		3	Complete	Follow Up	-	-	-	-
Housing and Council Tax Benefits – follow up of actions from 2020-21 and areas not tested in 2020-21		3	Complete	Follow Up	-	-	-	-
Capital Accounting		3	In Progress					
Disaster Recovery (ICT)		3	Complete	Limited	5	0	2	3
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5704 (August and September)	Grant Certification	3	Draft Report					
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 3 (Yearly Report)	Grant Certification	3	Complete	Reasonable – Grant Certification	0	0	0	0
Children’s and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 3 (previously referred to as Troubled Families)	Grant Certification	3	Complete	Reasonable – Grant Certification	0	0	0	0

Internal Audit Work Plan Qrt 3 2021-22 (approved 27th October 2021)

Oral Health Needs Assessment Plan	Request from Cllr Gandy & Director for Adults & Communities	3	Complete	Advisory	0	0	0	0
Additional audits for Q3								
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5661.	Grant Certification	3	Complete	Reasonable – Grant Certification	The actions have been outlined in the audit in the Q1 plan above.			
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5691.	Grant Certification	3	Complete	Reasonable – Grant Certification				
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5729	Grant Certification	3	Complete	Reasonable – Grant Certification				
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5772	Grant Certification	3	Complete	Reasonable – Grant Certification				
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5828.	Grant Certification	3	Complete	Reasonable – Grant Certification				

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Internal Audit Work Plan Qrt 4 2021-22 (approved 25th January 2021)

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Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Councillors Allowance Overspend	Identified as a risk in previous risk registers	4	In Progress					
Significant Partnerships		4	In Progress					
Employee Expenses		4	Draft Report					
Leavers Process	Identified as a risk in previous risk registers	4	Error in report this audit has been deferred to Q1 2022/23 to accommodate other audits.					
Software Asset Management to be replaced with Incident Management Review	Identified through the Cyber Security Framework audit	4	In Progress					
Condition Funding Grant Determination (2021): No 31/5501	Grant Certification	4	Deferred to Q1 2022/21 to accommodate additional audits.					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5789 (October, November, and December)	Grant Certification	4	In Progress					
Local Authority Community Testing Funding Grant Determination 2020/21: October, November, December	Grant Certification	4	Complete	Reasonable – Grant Certification	0	0	0	0
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 3 (Yearly Report)	Grant Certification	4	Complete	Reasonable – Grant Certification	0	0	0	0

Internal Audit Work Plan Qrt 4 2021-22 (approved 25th January 2021)

Children and Families								
Schools Thematic Audit	To provide assurance of basic standards for good financial health	4	Deferred to Q1 2022/21 to accommodate additional audits.					
Supporting Families – Monthly Review – Quarterly Report - Quarter 4 (<i>previously referred to as Troubled Families</i>)	Grant Certification	4	Complete	Reasonable – Grant Certification	0	0	0	0
Adults and Wellbeing								
Infection Control and Testing	-	4	In progress					
Additional audits for Q4								
South Wye Transport Package LEP Settlement	Request of Chief Executive Officer and Chief Finance Officer	4	Draft Report	Advisory				
Protect and Vaccinate Grant Determination 2021/2022 No 31/5912	Grant Determination	4	In Progress					

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To help raise awareness of the fraud risks on a National geographic level and to provide the committee with a quarterly summary update on corporate fraud prevention work undertaken across the Council.



Quarterly Fraud Update (January to March 2022)

Update Internal Audit. The Counter Fraud Specialist will report via the annual fraud report at the end of this financial year.

There is a role for the audit committee to challenge activity, understand what counter fraud activity can comprise and link with the various national reviews of public audit and accountability.

- *Fighting Fraud Locally, 2020*

To help raise awareness of the fraud risks on a National geographic level and to provide the committee with a quarterly summary update on corporate fraud prevention work undertaken across the Council.



Quarterly Fraud Update (November to December 2021)

Update Internal Audit. The Counter Fraud Specialist will report via the annual fraud report at the end of this financial year.

There is a role for the audit committee to challenge activity, understand what counter fraud activity can comprise and link with the various national reviews of public audit and accountability.

- *Fighting Fraud Locally, 2020*



SWAP Fraud Alerts



Attempts to offer grant on behalf of a Council

One of SWAPS Partners has identified three referrals from local businesses who had received suspicious phone calls from mobile phone numbers offering grants on behalf of the Council. Subsequent checks internally have confirmed that the calls received by these business do not relate to active grant schemes administered by the Council. It is believed this is a deliberate and fraudulent attempt to impersonate the Council's grant team.



Business Grants (Covid-19)

Fraudulent applications relating to the Additional Restrictions Grants have been made to trick the Council into paying grants which appear to be legitimate businesses. It is suspected that the recipient details belong to the fraudster and that the legitimate businesses have no idea this has taken place. In this instance the supporting documents were poor attempts however Councils should be vigilant with grant applications.

Actions/ongoing work

- Employee expenses audit is in the stages of being finalised with improvements to the control framework identified to reduce the risk of fraud.
- Direct Payments audit was paused for a small period of time due to the extra pressures placed on the team at year end. This audit has now recommenced, and it is aimed to complete this as part of the annual opinion for the 2021/22 financial year.
- Fraud Risk Assessment completed across the Council with the draft report issued. Discussions are now taking place as to which areas could potentially feed into the quarterly audit planning.

Appendix 2

Hereford City Centre Transport Package (HCCTP) Summary Report.








Supporting Reports include:

- Appendix 1: Objective 1 - Review of assurances and reporting provided for financial spend and budget position throughout the progression of the project to officers, members and relevant Committees by officers and members.
- Appendix 2: Objective 2 - Review of events that led to the purchase of additional land and increased costs of land.
- Appendix 3: Objective 3 - Review of events to identify the key points/events that led to the cost escalation.
- Appendix 4: Objective 4 - Review of information (reporting) provided to the LEP in regard to the achievement of deliverables and the spend of the £16m funding provided.
- Appendix 5: Objective 5 - Review of compliance with the recommendations from the Blueschool House Refurbishment investigation
- Appendix 6: Control Weaknesses and Agreed Actions

Executive Summary

Assurance Opinion		Number of Actions	
		Priority	Number
Investigation	No opinion provided as this is an investigation.	Priority 1	1
	Key Findings outlined below.	Priority 2	8
		Priority 3	2
		Total	11

Key Findings

	No original record of the land and costs has been identified to support the land costs outlined in the HCCTP Business Case. Limited assurance can be provided in relation to which properties resulted in increased/additional costs for the project.
	Budget monitoring across the project has demonstrated control weaknesses. Governance decisions are made in silo with limited financial information. Information presented across the Project Control Group (PCG) and Major Infrastructure Delivery Board (MIDB) regarding financial position is limited.
	Controls are needed to manage the governance around contract management and increased spend from contract award price. Although referred to as an increase in spend not overspend, the increase of the City Link Road Contract was significant and the wider impact on budget does not appear to have been considered.
	Significant weaknesses in relation to minute recording, tracking of actions from minutes, embedding of relevant documents and ensuring copies of minutes are provided to relevant parties.
	Improvements are needed to contract management processes relating to service orders and compensation events including the need to ensure service orders have sufficient coverage for compensation events appropriately. Increased scrutiny from the contract compliance team is required. The value and number of compensation events against one service order should be reviewed to ensure reasonableness of spend in line with the value of the service order.
	Governance decisions must provide clarity to ensure decision makers are fully informed prior to making decisions.
	Issues have not been escalated promptly, including the knowledge that the valuation of the property relating to claimant 23, 24 & 25 had increased significantly.

Investigation Scope

The scope of the investigation is to review the HCCTP against the five objectives:

1. Review of assurances and reporting provided for financial spend and budget position throughout the progression of the project to officers, members and relevant Committees by officers and members.
2. Review of events that led to the purchase of additional land and increased costs of land.
3. Review of events to identify the key points/events that led to the cost escalation.
4. Review of information (reporting) provided to the LEP in regard to the achievement of deliverables and the spend of the £16m funding provided.
5. Review of compliance with the recommendations from the Blueschool House Refurbishment investigation

This investigation will cover the period between January 2012 when Cabinet approved a spend of £27 million for the relief road (city link road) and the present day. Specific references to scope of documents reviewed are contained within the reports.

Supporting this summary report are six reports. A report per objective and lastly a report summarising the findings where actions are needed to address the control weaknesses.

Summary Conclusion

We understand that the project has spanned a number of years and is complex with nine deliverables to achieve. The original Business Case (November 2015) states in section 2.1.3: "It is Herefordshire Council's intention to implement all elements of the HCCTP package in support of the achievement of these objectives. The understanding that all nine deliverables would be achieved was agreed at the earliest date and yet each deliverable was often reported in isolation with no consideration of the impact on the achievement of the other deliverables.

The entire investigation has identified key control weaknesses, that has resulted in the HCCTP project not being able to fulfil the deliverables in the business case within the original budget. There has been missed opportunities and at times what would appear to be briefing by omission throughout the reporting, monitoring, and governance processes over the duration of the project which would have provided an earlier indication of the overspend issues prior to the eventual escalation in January 2021.

We have not been able to identify the original record of land and associated costs for the budget outlined in the business case for land acquisitions. For the purposes of this report, we have referred to this as the original record. We have identified other costings/budget figures, and these were used by officers in the budget update piece of work however we have no assurance these costs were those that were used to inform the business case. As a result of this it is not clear which properties were additional to the original scope and which had resulted in increased costs. Without this piece of evidence, it is difficult to determine at which point in the project's history that cost increases occurred and for which properties. It is imperative to ensure that a project has evidence of the budgeted costs to enable the project to be managed appropriately.

There are a number of weaknesses relating to governance including clarity within decision making reports and a lack of governance relating to increased costs from contract award. Weaknesses were identified in relation to compensation events for the City Link Road contract i.e., no record of officer decision for those over £50,000 (it is noted those under £50,000) were approved by Balfour Beatty Living Places (BBLP) as the project manager. In addition to this it was identified there was a potential concern where service orders were not set up to sufficiently cover work needed with additional compensation events then being required. In light of the previous SWAP Briefing Paper findings in relation to compensation events we would suggest increased scrutiny from the contract compliance team is required, the value and number of compensation events against one service order should be reviewed to ensure reasonableness of spend in line with the value of the service order.

The budget monitoring processes were inadequate across the entire governance structure including limited financial information within decision reports which resulted in decisions made in silo without wider consideration of the impact on the project overall budget position.

Finally, there were weaknesses across the governance structure in relation to minute taking and tracking of actions which meant assurance could not be provided that key issues were being discussed, dealt with and escalated accordingly despite a Delivery Board and Control Group in place.

In late 2019, because of control weaknesses identified in the existing oversight of the capital programme/capital project, a consultant was assigned a brief for the review and development of the capital programme. The consultant report recommended a revised new capital programme process to be introduced. The

Head of Programme Management Officer (PMO) and Programme Manager evaluated the proposal to determine its fit with Herefordshire Council requirements and consequently made revisions where appropriate. The Chief Finance Officer and Acting Chief Executive approved the new capital programme/capital projects process on 25 January 2021.

The new process was outlined to have two elements one for development and one for delivery. The delivery stage follows the existing process with new governance board structure, system templates and guidance, support and training from the PMO. A significant change is that the Corporate Project Manager will manage the spend rather than it be the responsibility of the service area. It is thought these new changes will improve the control framework and help ensure issues identified as part of this review and previous reviews do not occur again. Actions to improve the control frameworks identified as part of this review are outlined in appendix 6, where SWAP are aware of changes to process that have already been implemented e.g., corporate project management processes these have been outlined accordingly. We would suggest the respondents to the findings, ensure that where improvements to processes have already been made these are referred to in the agreed action section of the appendix 6 report.

In February 2020 SWAP Internal Audit Services completed a piece of work to provide assurance that the new Capital Programme/ Capital Projects process will provide adequate oversight to the Council with improved governance, monitoring, reporting and independent challenge of projects. The status of previously identified SWAP thematic audit recommendations and outstanding control weaknesses was considered as part of this audit. *Please note the scope of this audit reviewed specific projects as examples not all projects within the Capital Programme, further to this at the time of the audit the process was in the transition stage therefore SWAP Internal Audit Services recommended that the process be revisited once embedded.*

There are two elements of this report where improvements to the project management processes alone will not strengthen controls, and this relates to the original record of land and costs and the service order and compensation events issues raised in relation to BBLP. These issues will require liaison with the Property Services team and Contract Compliance team to ensure improvements are made.

Full Summary

Background and Investigation Detail

Background

The Hereford City Centre Transport Package (HCCTP) is an integrated package of schemes & consists of the following elements:

- A new City Link Road (CLR) integrated with complementary measures to support the delivery of a major regeneration scheme.
- Improvements to the public realm and the facilities for walking, cycling and public transport modes; and
- A new Transport Hub at Hereford Railway Station.

The key objectives of the HCCTP are to support economic growth, improve accessibility and encourage active travel in like with the adopted policies of Herefordshire Council, the Marches LEP and Central Government.

Business Case – The Financial Case

The Financial Case identified the base cost estimate for the HCCTP scheme including construction works, land purchase, statutory utilities & other cost heads to be £36.1million, with a further breakdown across different elements of the project. The business case then allows figures for risk and contingency. The Business Case outlines the Marches LEP Growth Fund contribution as £16 million.

Capital Programme Approval.

In January 2012 Cabinet approved a spend of £27 million for the relief road (city link road) and then in December 2015 Cabinet approved a further £13.6 million for the HCCTP. This is a total budget of £40.6 million. It is noted this is £200,000 different from the business case amount as the developed package was estimated at £40.651m which reduced Herefordshire Council's contribution to £24.651m.

The objectives of the investigation are to review:

1. the assurances and the reporting provided for financial spend and budget position throughout the progression of the project from the Cabinet Key decision on 14 June 2012 to the current position today.
2. events that led to the purchase of additional land and increased costs of land.
3. events to identify the key points/events that led to the cost escalation.
4. review of information (reporting) provided to the LEP in regard to the achievement of deliverables and the spend of the £16m funding provided.
5. Review of compliance with the recommendations from the Blueschool investigation

Project Management

The HCCTP project was not part of the new corporate project management processes and instead was being managed and run by the MIDB.

Conclusion

A summary for each objective is outlined below with a supporting separate document for each containing the detailed findings. In addition to this Appendix 6 documents the control weaknesses with the agreed actions for relevant senior officers as well as a timescale for their completion.

Objective 1: Review the assurances and the reporting provided for financial spend and budget position throughout the progression of the project from the Cabinet Key decision on 14 June 2012 to the current position today.

Review of documentation and other evidence

- A review of governance decisions and RoOD's has identified information relating to the financial spend and budget position is limited. The budget position of the project is primarily always referred to the entire project being within the overall budget. Further to this financial information included with dashboard presented to MIDB does not provide sufficient information to challenge budget positions.
- Financial information is reported in silo with no information regarding the wider impact on the budget.
- Decision makers are not provided with the knowledge of the entire project spend and therefore they cannot be clear what the impact of the decisions being made are on the delivery of the complete project.
- The November 2017 report lacks clarity and transparency regarding
 - the use of risk and contingency and the use of underspends in other areas of the project to fund overspends
 - known overspends within the project at the time
 - the wording of the decision to ensure it was clearly known that a large proportion of the risk and contingency had been utilised at this point.
- A review of minutes (Cabinet Member Briefings, MIDB, and PCG) shows discussions regarding budget pressures and cost increases are limited. Further to this across MIDB and PCG there is a lack of follow up and tracking of actions including escalation identified as well as key documents not being embedded within minutes and agendas.

Summary of fact-finding meetings with officers and councillors.

- **Officer B** stated monthly budget reports are produced by project managers (BBLP) to present to the MIDB which shows spend against budget at a granular level including a monthly forecast position, which would identify cost pressures and increases which require escalation. Although a breakdown of costs was not included in governance decisions, reporting did take place to MIDB, with costs tracked against the business case elements/breakdown. The way the Council has taken decisions has changed over the life of the project and how officers set up the risk and finance is different to what it was. Officer B was not able to confirm with confidence when Cabinet Members were made aware that there were issues with the HCCTP project budget but identified the Cabinet was briefed in 2017. Officer B accepted the wording of the 2017 decision report could have been clearer in relation to the use of the risk and contingency allowances.
- **Councillor Harrington (Cabinet Member Infrastructure and Transport)** did not receive a detailed briefing regarding HCCTP when he was newly elected and does not recall regular briefings. Recalls some conversations had with Officer A regarding LEP funding and the increased land costs approximately six months after the election. Project spend or budget position information was not provided until the January 2021 governance report. Councillor

Harrington explained that whilst he was aware the budget was not perfect, he was not aware of the further threat to the £6M remaining for the Public Realm and Transport Hub.

- **Councillor Harvey (Cabinet Member Finance)** identified members were told that there were cost pressures associated with the HCCTP which meant there was no clarity on how much of the rest of the program could be delivered within the budget. At this point Councillor Harrington was clear that he wanted the transport hub to be completed. Only in January 2021 did it become clear there was a much bigger problem.
- **Councillor Phillips, Councillor Lester and Councillor Shaw** confirmed that they were not made aware of any budget pressures regarding the financial position of the project.

Objective 2: Review of events that led to the purchase of additional land and increased costs of land.

Review of documentation and other evidence:

- There is no original record of land which outlines how the £11,022,000 budget was set in the business case.
- Assurance cannot be provided as to which properties were or were not budgeted for and which have resulted in increased costs.
- The increase in the valuation of property 23 was known as early as September 2018.
- The financial aspects of purchasing additional land and the impact on the overall project budget are not as transparent as they could be. The November 2017 report although increased land costs are identified it is not fully transparent where the additional costs were and why.
- We have not been able to identify any reference to the increased land costs within the Cabinet Member Briefings reviewed to date.
- Minutes from the MIDB and PCG have demonstrated limited references to land cost increases prior to May 2019. Where there are references to some land cost increases the minutes do not provide an understanding as to how these issues developed, why these costs were not budgeted for and there is a limited audit trail on how they were followed-up and escalated in a timely manner. The issues surrounding properties 23, 24 and 15 were not raised in the MIDB minutes until 2020.
- In the PCG minutes it would appear the Council were trying to identify their position in relation to land claims, yet it took from June 2019 to January 2020 to achieve this and even then, the minutes are not clear as to what document was presented to the PCG.

Summary of fact-finding meetings with officers and councillors:

- **Officer C** was not aware of any original record of land which outlined the breakdown of the £11,022,000 land costs budget. Officer C identified that there were no significant land costs arising from land not being identified by land registry. Further to this from the retrospective valuation work Officer C completed there were a number of properties that have exceeded their perceived budget as early as 2015. Officer C has identified that the claim for property 23 was received in July 2018. However, Officer C was not made aware until early 2019 when Officer B identified this in an email. There was a delay in dealing with this claim as when it was initially received the Council's agent – Lambert Smith and Hampton identified they did not think they had the expertise to value property 23 and suggested the Council use Barber Wadlow to assist with the claim. Officer C explained that some of the interests/properties referred to in the November 2017 cabinet member decision as the properties that had incurred additional costs had already been purchased in March 2015, and others were not identified as cost increases at this point, so not clear why they were raised as increased/extra costs in November 2017.

- **Officer B** summarised the overspend of the HCCTP project is due to the increase in the land costs. Officer B highlighted that it was not anticipated the cost of property 23 would increase so significantly from the November 2017 decision report and the increased costs of this claim have largely arisen from it being a cooperative claim. Officer B identified the increased claim and additional claims relating to property 23 surfaced at the end of 2019/beginning of 2020. Officer B summarised that land costs have increased since 2015 with any increases reported at each meeting (PCG/MIDB), plot by plot, including those which had exceeded the anticipated costs. The first significant increase in costs was reported to the MIDB and updated in the 2017 report which included the land pressures of property 23. Officer B identified property 20, property 14 and property 28 were also sites where the costs were in excess of what was agreed in 2015 i./e., in the budget. There was no original record of land costs however some costs were known as some land had been purchased at the time the business case was approved. Officer B identified that the November 2017 Cabinet Member Decision Report could have been clearer, in the way the report was setting out the land outside the footprint of the highway and the value of that to the Council.
- **Councillor Harrington** summarised updates and briefings since the 2019 elections were limited and he was not made aware of any issues regarding the land costs until approximately six months after the election. Councillor Harrington was given the impression by Officer A that there was a view to 'crack on with the road'. In 2020 Councillor Harrington was told that the Council would need to spend more money on land and highlighted the issue of a potential tribunal with one claimant. Councillor Harrington was made aware a further decision paper was needed to outline the budget, how the Council will pay for the increased costs, what was left and what the next steps were. Councillor Harrington explained he did challenge how the Council would have certainty in this situation and Officer B explained that if they did not do this report, they may not be able to show that the Council was dealing with the claim and can indeed pay the claim. Councillor Harrington identified different versions of the report were presented yet the final version focused more on recalibrating the budget and less on the next steps. Councillor Harrington explained it felt like a decision needed to be made due to the potential tribunal pressures he was made aware of.
- **Councillor Harvey** explained it was not until January 2021 that Councillor Harrington was presented with a notice to make a decision to approve the CPO increased land costs. This was when members started to understand that the Council had not finished paying for the road. Members had been told it had been completed within budget although these CPO costs were sat there and had not been resolved with landowners which was biting big chunks out of the remaining budget to fund the transport hub and public realm. Prior to this in the autumn of 2020 Councillor Harvey recalls Officer A identifying that the Council were probably going to have to reign back on the ambitions for the transport hub, however at this point the administration were just saying no that cannot happen and no further detail was provided.
- **Councillor Phillips, Councillor Lester and Councillor Shaw** confirmed that they were not made aware of any land cost increases relating to the project.

Objective 3: Review of events to identify the key points/events that led to the cost escalation.

City Link Road Contract

Review of documentation and other evidence:

- There is no reference to the City Link Road Contract and overspends in the decision papers, cabinet member briefings or the MIDB minutes reviewed. There is limited reference to the increased costs in the PCG minutes. We have identified some references, but none refer to the increase in cost from the tender award price.

Summary of fact-finding meetings with officers/members:

- Officer B was aware of the increased spend on the construction of the City Link Road and explained anything above the tender value would have been part of the change control process within the contracts with Contractor 1 and BBLP. In 2017 the contract spend with contractor 1 was still within the City Link Road – Construction and Utilities budget within the overall project and that the changes to the contract that take the cost above the tender price are not an overspend but an increase from the tender price within the construction and utilities budget envelope. Officer B explained that this is why these were not reported as overspend.

The Council should consider how the governance of increased costs from tender award are dealt with ensuring sufficient governance is in place to approve spend and ensure the wider impact on the project budget is considered.

Widemarsh Brook Diversion

There is no reference to the Widemarsh Brook, and Attenuation Pond and increased costs identified in the Decision Papers/RoOD reviewed. Review of minutes suggests there were issues and increased costs however it is difficult to ascertain what these were, what was the outcome and finally the impact on the budget due to the limitations in the minutes reviewed.

Allowance of works in BBLP Service Orders

Review of documentation and other evidence

- Two instances were identified where additional works are referred but cannot be completed due to there being no allowance within the original service order. Considering the findings that were identified in the 2020 SWAP Briefing Paper where a considerable proportion of the spend with BBLP was spent via compensation events I am concerned service orders are not being set up to appropriately to cover the works needed. Further work is needed to fully understand what the scope of the original service orders were and whether the compensation events were reasonable. However, it is clear further scrutiny is required from the contract compliance team, in liaison with project teams, in relation to compensation events.

Objective 4: Review of information (reporting) provided to the LEP in regard to the achievement of deliverables and the spend of the £16m funding provided.

Review of documentation and other evidence:

- Section 3.1 of the contract would suggest that the deliverables of the business case were to be achieved.
- Monthly claim forms do not refer to the deliverables and are reporting against the outputs outlined as part of the contract.
- The LEP funding was provided based on the business case, therefore this would suggest the deliverables were to be achieved.
- The Cabinet member briefings minutes do not refer to the LEP funding until October 2020, where the increased costs of the project are highlighted along with the potential the project may not be completed as originally outlined.

- The MIDB minutes do refer to LEP funding and delays to work however it is unclear in the minutes whether this was communicated/escalated either within the Council or to the LEP and what this outcome was. In 2019 there are clear discussions as to whether the spend is in line with the HCCTP business case however again it is not clear if this has been reported/escalated to the LEP and what this outcome was.
- There is no reference of the LEP funding in the PCG minutes reviewed to date.

Summary of fact-finding meetings with officers and councillors:

- **Councillor Harrington (Cabinet Member Infrastructure)** identified he did query how the LEP funding had been spent with Officer A and asked were there any issues as there was a deadline in which the LEP funding had to be spent. Councillor Harrington was told that the Council had used the LEP funding for the City Link Road element of the HCCTP. The Council had defrayed the spend (funding) within the timeline and would then be using other funds (the Council's prudential borrowing) for the other elements of the HCCTP i.e., public realm and transport hub. In a later conversation, after he was aware of the Compulsory Purchase Order (CPO) Councillor Harrington asked Officer B and Officer A if the LEP were aware the Council had not finished paying for the City Link Road, i.e., the money was not defrayed technically if the Council had not finished paying for the land, he was told this had been squared. Councillor Harrington insisted that the LEP were made aware of the fact that the compensation payments were not completed however he explained this was not done until the third request when he raised this while Officer J and Officer K were present.
- **Officer B** identified as part of the monthly reports a summary of the delivery objectives and outputs were reported on. The objective of this investigation refers to deliverables, and these are defined in the Business Case but not in the LEP contract. Officer B highlighted that the Council are contracted to report on outputs not deliverables. Officer B explained the Council achieved the grant funding and drew down the £16,000,000 within the period stated. Any updates regarding delays to the programme would have been highlighted to the LEP. When the business case was approved in 2015 the Council had not progressed the detail of the Public Realm and Transport Hub. The LEP funding required some elements to be included and specifically the Business Case referred to a reduction in road space. MIDB was seeking clarification regarding any flexibility in the Business Case to identify whether the Council could achieve the same improvements if the administration were supportive without narrowing the road. Officer B explained that this review of flexibility was not discussed with the LEP as the discussion and task was more around reviewing the business case to establish the officer's view. During the fact-finding meeting the Officer B could not recall what the outcome of this review was. Officer B explained that based on the contract the Council did not have to spend the £16,000,000 on specific things. The Council requested drawdowns using grant drawdown notices, this was based on quarterly spend, which was predominantly on City Link Road at the time the funds were being drawn down. The Public Realm and the Transport Hub were to be funded by the Council. There were conditions on the grant funding which were set out in the contract relating to the link road, transport hub and public realm. These included needing to make improvements for pedestrians and cyclists. Officer B explained the discussions during the MIDB meetings were around what the next steps should be in view of the overspending as the costs were consuming into the transport hub and the public realm budgets. Officer B summarised that it was not unreasonable to reassess the options as time had passed since the Business Case had been approved. The MIDB was considering whether the outcomes for the Public Realm and Transport Hub could still be delivered even in the worst cost-case scenario of claimant 23. MIDB wanted to check the level of requirements in the Business Case. Officer B summarised, based on the minutes from the meeting on the 7th of January 2020 that it would appear the team were saying that specificity was not there.

Objective 5: Review of compliance with the recommendations from the Blueschool House Refurbishment investigation

The review has concluded that although there are variations in the findings and agreed actions there are strong thematic findings that can be seen through the audits since and including the Blueschool House Refurbishment Investigation as follows:

- Insufficient or lack of a clear audit trail to outline how budget figures have been derived and what budget figures are based on.
- Insufficient detail and/or information to be included in governance decisions to ensure informed decision making takes place.
- A lack of robust budget monitoring and clarity on financial position.
- Poor governance in relation to compensation events and increases in costs through the tender and contract award processes.
- Insufficient recording in minutes and tracking of actions across the project governance structure, and
- Lack of escalation of key project events/issues.

Method and Scope

The scope of the investigation is to review against the five objectives outlined above. This investigation will cover the period between January 2012 when Cabinet approved a spend of £27 million for the relief road (city link road) and the present day. Specific references to scope of documents reviewed are contained within the report.

The investigation included:

- Interview with relevant officers/members,
- Fact-finding meetings with relevant officers: and
- Review of relevant documentation including governance decisions, project related documents, minutes of meetings, and other evidential documentation gathered as part of the review.

For the purposes of this report we have anonymised references to officers as follows:

- Herefordshire Council officers are anonymised using Officer A through to Officer R
- Officers from contractors are anonymised using Officer 1 through to Officer 16, with their employer denoted, and
- Claimant/agencies representing claimants have been anonymised using Claimant/Agent 1 to 35 although please note in some instances these are referred to as property 1-34 depending on the context they are being discussed.

Fact finding meetings were held with:

- Officer C
- Officer B
- Councillor Elizabeth Harvey - Cabinet member - Finance, Corporate Services and Planning
- Councillor John Harrington – Cabinet member - Infrastructure and Transport

- Councillor Nigel Shaw - Chairperson of Audit and Governance committee (formerly Cabinet Member Finance)

Statements were taken from:

- Councillor Roger Phillips
- Councillor Jonathan Lester - Chairperson of General Scrutiny Committee

COVID-19 Restrictions

Due to the COVID-19 restrictions, all fact-finding meetings and interviews took place using video conferencing (Microsoft Teams). Both Amy Probert – Counter Fraud Investigation Officer and Bruno Lecompte – Counter Fraud Investigation Officer from SWAP Internal Audit Services were present at the meetings.

Key Evidence

A log of key evidence can be provided as necessary.

Audit Framework and Definitions

Categorisation of ...

In addition to the corporate risk assessment, it is important that management know how important the recommendation is to their service. Each recommendation has been given a priority rating at service level with the following definitions:

Priority 1	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Authors and Distribution

Please note that this report has been prepared and distributed in accordance with the agreed Audit Charter and procedures. The report has been prepared for the sole use of the Partnership. No responsibility is assumed by us to any other person or organisation.



This report was produced and issued by:

Amy Probert	Principal Counter Fraud Investigation Officer
Bruno LeCompte	Principal Counter Fraud Investigation Officer
Jacqui Gooding	Assistant Director Counter Fraud Team



This report has been distributed to the following individuals:

Andrew Lovegrove	Chief Finance Officer
Paul Walker	Chief Executive
Claire Ward	Monitoring Officer

Appendix 3: Investigation Findings – Control Weaknesses and Agreed Actions

<p>Finding 1</p> <p>No original record of land with associated costs</p> <p>There is no definitive original record of land and associated costs that appears to have informed the business case budget (business case dated 2015).</p> <p>There is a document from Lambert Smith and Hampton dated 2008 which includes some properties included in the Compulsory Purchase Order (CPO) but not all and includes properties that were not included in the CPO.</p> <p>The total compensation valuation in the Lambert Smith and Hampton document is £10,564,500 a difference of £457,500 from the £11,022,000 budget within the business case. Whilst it is not a significant difference the document does not account for all properties.</p> <p>There is no known/identified link between the Lambert Smith Hampton document and the General Vesting Deeds Document.</p>	<p>Action</p> <p>For projects the Council ensures that there is an original record of land and costs associated with land purchase for the specific project through its project management document process.</p> <p>The Council has requested BBLP who engaged Parsons Bricknerhoff (now WSP) for documents that outline the costs referred to in the business case.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Priority</td> <td style="width: 10%; text-align: center; background-color: red; color: white;">1</td> <td style="width: 20%;">SWAP Reference</td> <td style="width: 50%;"></td> </tr> <tr> <td>Responsible Officer</td> <td colspan="3">Interim Service Director Environment, Highways and Waste, Economy and Environment</td> </tr> <tr> <td>Timescale</td> <td colspan="3">In progress</td> </tr> </table>	Priority	1	SWAP Reference		Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment			Timescale	In progress		
Priority	1	SWAP Reference											
Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment												
Timescale	In progress												

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Finding 2	Action		
<p>Minutes (sufficient detail and tracking of actions)</p> <p>Review of minutes across the project governance structure for the HCCTP identify that actions were not being tracked or evidenced as completed. There is also a lack of a clear audit trail to demonstrate that issues have been escalated and dealt with accordingly.</p> <p>In some instances, there are minutes which show there are long standing overdue actions, yet minutes do not make it clear if this was challenged appropriately. This finding is applicable to cabinet member briefings, MIDB and PCG Meetings.</p> <p>The Council must ensure that minutes are taken with sufficient detail ensuring any decisions made or actions identified are clearly documented with the ability to track subsequent progress/action.</p> <p>It is recognised that improvements were noted in this area from February 2020 and with the implementation of the corporate project management documentation further improvements are expected.</p>	<p>All meetings relating to HCCTP are now organised through the Project Management Office and recorded on the council’s project management system (Verto). Action logs are recorded following meetings and there is an allocated project manager and project support officer who manage and track the actions.</p>		
Priority	2	SWAP Reference	
Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment		
Timescale	Completed		

<p>Finding 3</p>	<p>Action</p>		
<p>Cabinet Member Briefings Cabinet Members are not provided with copies of minutes from the Cabinet Member Briefings they attend, and, in some instances, there is no record of the meeting. Formal discussions and meetings between officers and members should be recorded with minutes provided to all parties to ensure they are satisfied there is an accurate record of the meeting. In addition to this any papers provided to Cabinet Members either prior to the meeting or during should be attached to this record of the meeting.</p>	<p>Minutes are now taken at cabinet member briefings by project support officers and project managers who work in the project management office and are shared with cabinet members and recorded on the councils project management system (verto)</p>		
<p>Priority</p>	<p>2</p>	<p>SWAP Reference</p>	
<p>Responsible Officer</p>	<p>Interim Service Director Environment, Highways and Waste, Economy and Environment</p>		
<p>Timescale</p>	<p>Completed</p>		

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Finding 4	Action												
<p>Budget Information within governance decisions</p> <p>The budget position of the project and relating financial information is limited and reported across governance decisions in silo with no wider context to the overall budget spend provided other than generalised statements that the project will be achieved within the overall budget.</p> <p>Consideration to be given as to whether it would be beneficial to include a budget update in all governance decisions, i.e., an update of spend against each element of the project at each governance decision and whether this will impact on the overall budget. This would allow all decisions to be made with full transparency of current spend and the impact of the spend outlined in the decision being made. This would provide the overall financial position for the project.</p> <p>This budget position/update needs to contain sufficient information for example total spend against total budget will not demonstrate areas under more cost pressures than others. The detail of budget lines within the overall project budget would allow these pressures to be identified.</p> <p>Consideration will also need to be given as to whether guidance to completing governance decision reports needs updating once a decision is made as to what information is to be included in the report.</p> <p>The Council must ensure when key governance decisions are made that the decision maker has sufficient information at that time to make such a decision.</p>	<p>The project governance and budget is now managed through the councils project management office. The governance decisions are recorded on the councils project management system (Verto).</p> <p>A senior capital project manager is assigned to the project with the budget authority to spend against the project linking to the correct governance. Project decision making around spend is closely linked to the governance decision making.</p> <p>Accurate budget forecast assessments are now discussed with lead members so early warnings on costs pressures are visible and discussed appropriately.</p> <p>A more rigorous approach to project costing is in place and being developed with budget assumptions subject to regular challenge.</p> <table border="1" data-bbox="1144 1042 2105 1283"> <thead> <tr> <th data-bbox="1144 1042 1373 1094">Priority</th> <td data-bbox="1373 1042 1619 1094">2</td> <th data-bbox="1619 1042 1854 1094">SWAP Reference</th> <td data-bbox="1854 1042 2105 1094"></td> </tr> </thead> <tbody> <tr> <th data-bbox="1144 1094 1619 1238">Responsible Officer</th> <td colspan="3" data-bbox="1619 1094 2105 1238">Interim Service Director Environment, Highways and Waste, Economy and Environment</td> </tr> <tr> <th data-bbox="1144 1238 1619 1283">Timescale</th> <td colspan="3" data-bbox="1619 1238 2105 1283">Completed</td> </tr> </tbody> </table>	Priority	2	SWAP Reference		Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment			Timescale	Completed		
Priority	2	SWAP Reference											
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Timescale	Completed												

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Finding 5	Action												
<p>Financial Reporting</p> <p>There is limited financial information included in the dashboard report that is presented to MIDB and the recorded minutes of the meeting which mean it is very difficult to understand the projects budget position, for example where overspends have occurred.</p> <p>Whilst we recognise that supporting detailed financial reports are also presented to the MIDB, again it is not always clear from the reports or minutes when or if there is a budget pressure. Consideration should be given to the financial information and level of detail that is included in the budget reports across the governance levels of a project and the impact on the overall budget.</p> <p>Further to this we were informed that Balfour Beatty Living Places (BBLP) were providing the monthly financial report as they were the Council’s project manager however as they were providing additional works to the management of the City Link Road element consideration should be given as to whether this was appropriate as there is a lack of independence from the Councils contractor.</p> <p>It is recognised that the new Corporate Project Management processes means each project has a project manager who has responsibility for the project budget.</p>	<p>The project budget is now tracked and reported through the councils corporate programme office. Information is stored in business world, managed by the councils strategic capital finance manager and the councils project managers. Information is stored on the council’s project management system and forms part of the bi monthly reporting.</p> <p>Accurate budget forecast assessments are now discussed with lead members so early warnings on costs pressures are visible and discussed appropriately.</p> <p>A more rigorous approach to project costing is in place and being developed with budget assumptions subject to regular challenge.</p> <table border="1" data-bbox="1144 997 2128 1176"> <tr> <td data-bbox="1144 997 1377 1059">Priority</td> <td data-bbox="1377 997 1624 1059">2</td> <td data-bbox="1624 997 1863 1059">SWAP Reference</td> <td data-bbox="1863 997 2128 1059"></td> </tr> <tr> <td data-bbox="1144 1059 1624 1121">Responsible Officer</td> <td colspan="3" data-bbox="1624 1059 2128 1121">Director of Resources and Assurance</td> </tr> <tr> <td data-bbox="1144 1121 1624 1176">Timescale</td> <td colspan="3" data-bbox="1624 1121 2128 1176">Completed</td> </tr> </table>	Priority	2	SWAP Reference		Responsible Officer	Director of Resources and Assurance			Timescale	Completed		
Priority	2	SWAP Reference											
Responsible Officer	Director of Resources and Assurance												
Timescale	Completed												

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Finding 6	Action						
<p>Service Order Coverage and Compensation Events</p> <p>We have identified two references in minutes to the need for action/work from BBLP however this was not possible as there was no allowance or coverage within the service order. Therefore, compensation events were needed to allow this work/action to take place.</p> <p>In the previous piece of work SWAP completed we reported that spend to date with BBLP totalled £9,953,303.41 for works related to HCCTP. We identified that 22.4% of this spend was as a result of compensation events (£2,229,789.60). An analysis of service orders and related compensation events recorded on a spreadsheet provided by Officer D demonstrated there are a large number of compensation events being raised and a proportion of these are of a significant value in comparison to the original service order.</p> <p>As a result of this previous finding and two instances identified in this review, the Council must ensure that:</p> <ol style="list-style-type: none"> 1. original service orders include sufficient coverage 2. compensation events are raised correctly and approved (for example not used instead of service orders). 3. Compensation events against the same service order that are in excess of a % (to be agreed) of the original value of the service order should be scrutinised to understand why the original service order was inadequate. <p>Consideration to also be given to the level of scrutiny applied to compensation events from the contract compliance team and what input is required from project teams/managers to assist the contract compliance team in this process.</p>	<p>The council is commissioning Aecom to undertake a thorough assessment of the service orders and provide a value for money assessment on the compensation events that were associated with the project. The assessment will include what processes were followed, how compensation events were cost controlled and assessed and who made the decisions to undertake works sitting outside of the agreed contract value.</p>	<table border="1"> <tr> <td>Priority</td> <td style="background-color: #FFD700;">2</td> <td>SWAP Reference</td> <td></td> </tr> </table>	Priority	2	SWAP Reference		<p>Interim Service Director Environment, Highways and Waste, Economy and Environment</p>
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Finding 7	Action												
<p>Service Order Coverage and Compensation Events</p> <p>The Council should review in more depth the two service orders that were identified as part of this review as not having sufficient coverage. This will determine what the cause of this was and what the proportion of compensation events raised were against the original service order.</p> <p>The Council should ensure that works completed against the service order are monitored to enable prompt identification where there may be a lack of coverage available within the service order.</p> <p>Further to this service orders that were identified in the previous piece of work (SWAP HCCTP Briefing Paper 2020) to have a considerable percentage of compensation events against the original service order should be included in this review as outlined above.</p> <p>Project management, the oversight of works and managing costs and budgets is very difficult if service orders are not raised appropriately. Service orders must be raised with sufficient coverage in line with the works to be completed, and compensation events should not be used as an alternative to creating a new service order. When increases in costs arise for specific elements and there is no original service order, we would question how officers are able to evaluate if the compensation event is reasonable.</p>	<p>Same as above</p> <table border="1" data-bbox="1144 1050 2105 1286"> <tr> <td data-bbox="1144 1050 1373 1098">Priority</td> <td data-bbox="1373 1050 1619 1098">3</td> <td data-bbox="1619 1050 1854 1098">SWAP Reference</td> <td data-bbox="1854 1050 2105 1098"></td> </tr> <tr> <td data-bbox="1144 1098 1619 1241">Responsible Officer</td> <td colspan="3" data-bbox="1619 1098 2105 1241">Interim Service Director Environment, Highways and Waste, Economy and Environment</td> </tr> <tr> <td data-bbox="1144 1241 1619 1286">Timescale</td> <td colspan="3" data-bbox="1619 1241 2105 1286">Completed by August 2022</td> </tr> </table>	Priority	3	SWAP Reference		Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment			Timescale	Completed by August 2022		
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Timescale	Completed by August 2022												

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<p>Finding 8</p> <p>Governance of increases in cost from contact award costs</p> <p>Officer B explained the city link road contract was not overspent as the governance decision in April 2016 (titled: ESG link road (City link road) – Contract Award) purely approved the tender price. Officer B explained that it is quite normal for a contract of this nature to increase in price and that this would be managed through change control processes.</p> <p>As the increase in cost here is significant at an increase of £2,925,532.21 the Council need to consider how the governance of increases in costs from tender prices would be best managed in the future.</p> <p>This would include appropriate governance for compensation events over £50,000. We have not seen the use of Record of Officers Decisions for such spend with the contractor for the City Link Road.</p>	<p>Action</p> <p>The project is now being managed through the council project management office. The project manager is responsible for the budget and has put robust budget management controls in place. A staged approach is being communicated effectively and linked to budget decision making. The project is now following Riba stages and decisions to spend are linked to stages rather than total project budget.</p> <p>Where budget challenges are identified on completion of stages the project manager is ensuring that robust change control processes are in place managed through the project and programme board structures in the PMO.</p> <table border="1" data-bbox="1144 847 2105 1114"> <tr> <td data-bbox="1144 847 1373 898">Priority</td> <td data-bbox="1373 847 1621 898">2</td> <td data-bbox="1621 847 1854 898">SWAP Reference</td> <td data-bbox="1854 847 2105 898"></td> </tr> <tr> <td data-bbox="1144 898 1621 1067">Responsible Officer</td> <td colspan="3" data-bbox="1621 898 2105 1067">Interim Service Director Environment, Highways and Waste, Economy and Environment</td> </tr> <tr> <td data-bbox="1144 1067 1621 1114">Timescale</td> <td colspan="3" data-bbox="1621 1067 2105 1114">Complete</td> </tr> </table>	Priority	2	SWAP Reference		Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment			Timescale	Complete		
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Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment												
Timescale	Complete												

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Finding 9	Action			
<p>Clarity in decision making</p> <p>The November 2017 Cabinet Member Decision Report titled ‘Programme Update’ stated: <i>Additional land has been acquired outside the footprint of the road to enable planned regeneration on completion of the road scheme. This cost was not contained within the land costs estimated in the business case. These areas include property 20 outside the extents of the new highway, property 27, property 5, property 14 outside the new highway extents, properties 23, 24 and 25 and property 32.</i></p> <p>This report outlines and suggests that these areas are those that resulted in increased land costs, yet I have not been able to find assurance or evidence that shows these areas were not in the business case or that the costs had increased since the business case as there is no original record of the land costs, as outlined in finding 8.</p> <p>A retrospective exercise was completed to try and identify this however this had not been completed at this time therefore I am not clear as to how Officers were aware that these were the properties that had resulted in increased costs.</p> <p>Officer B agreed that in hindsight this report could have been clearer. In addition to this the review has identified lack of clarity in the same report in regard to the use of contingency and risk allowance (see report objective 1). The Council must ensure that governance decisions are set out clearly to ensure decision makers are clear what they are or not agreeing.</p>	<p>Moving forward, when the need for land purchase arises on projects, an assessment is made of the land take, the land valuation, and the rationale for including it I the project and a formal change control mechanism would be used to determine whether it should be included in the project. The decision will be taken by the project board and the budget forecast revised accordingly and the correct governance completed to reflect and changes to budget.</p>			
	<p>Priority</p>	<p>2</p>	<p>SWAP Reference</p>	
	<p>Responsible Officer</p>		<p>Interim Service Director Environment, Highways and Waste, Economy and Environment</p>	
	<p>Timescale</p>		<p>Implemented</p>	

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<p>Finding 10</p> <p>Officers must ensure escalation of key issues are completed promptly.</p> <p>The review has demonstrated that the issues with the valuation of property 23 were identified as early as September 2018, yet these were not formally raised until early 2020 with the Chief Finance Officer and Members.</p>	<p>Action</p> <p>The project is now being managed by the councils corporate project management office where there is a robust meeting structure that starts from a task and finish group, that escalates to a project board and then further escalation goes to a programme board represented by the SRO and service director. Projects are tracked against milestones and tasks which are rated red, amber and green. The project manager rag rates the reports as they are close to the operations of the project and the project and programme boards discuss escalations that fall out of the rag ratings.</p> <table border="1" data-bbox="1144 590 2105 831"> <tr> <td data-bbox="1144 590 1373 638">Priority</td> <td data-bbox="1373 590 1621 638">2</td> <td data-bbox="1621 590 1854 638">SWAP Reference</td> <td data-bbox="1854 590 2105 638"></td> </tr> <tr> <td data-bbox="1144 638 1621 783">Responsible Officer</td> <td colspan="3" data-bbox="1621 638 2105 783">Interim Service Director Environment, Highways and Waste, Economy and Environment</td> </tr> <tr> <td data-bbox="1144 783 1621 831">Timescale</td> <td colspan="3" data-bbox="1621 783 2105 831">Implemented</td> </tr> </table>	Priority	2	SWAP Reference		Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment			Timescale	Implemented		
Priority	2	SWAP Reference											
Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment												
Timescale	Implemented												
<p>Finding 11</p> <p>LEP Funding and Achievement of Deliverables</p> <p>Officer B explained that objective 4 of this investigation refers to deliverables and identified that these are defined in the HCCTP Business Case but not in the LEP contract.</p> <p>The Council are contracted to report on outputs not deliverables to the LEP and the monthly claim forms do not refer to the deliverables and are reporting against the outputs outlined as part of the contract. However, sections of the LEP contract suggest that deliverables are to be achieved (see detail in objective 4 report).</p> <p>As the LEP provided the funding on the basis of the business case, and the business case outlines the deliverables my conclusion is that the LEP would expect the deliverables should be achieved as part of the project.</p>	<p>Action</p> <p>Council officers agree</p>												

In future the Council must ensure they are clear when in receipt of funding what conditions there are, what is expected and ensure these are achieved to reduce any risk of the funding being withdrawn or claimed back.

Priority	3	SWAP Reference	
Responsible Officer	Interim Service Director Environment, Highways and Waste, Economy and Environment		
Timescale	N/A		

Title of report: Work programme update

Meeting: Audit and governance committee

Meeting date: Tuesday 10 May 2022

Report by: Democratic services officer

Classification

Open

Decision type

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.
- 5 To assist with the efficient transaction of business at this meeting, items on the draft annual governance statement and on the progress on internal audit recommendations will now be received at the June 2022 meeting. It is also intended that a report on the anti-fraud, bribery and corruption policy will also be received at the June 2022 meeting.
- 6 At the general scrutiny committee on 27 January 2022 (minute 53 refers), in considering 2022/23 budget setting, recommended to the executive that:
'The Audit and Governance Committee be invited to consider the use of consultants and information providers.'
The executive response, agreed by Cabinet on 31 January 2022 (minute 82 refers), resolved that:
'Cabinet will invite the Chair of Audit and Governance Committee to add this to the Committee's work programme.'

Community impact

- 7 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.

Environmental impact

- 8 Whilst this is an update on the work programme 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

- 9 This report does not impact on this area.

Resource implications

- 10 There are no financial implications.

Legal implications

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

Risk management

- 12 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

- 13 The director of finance and assurance/ S151 officer, director of governance and legal services / monitoring officer, chairperson and vice-chairperson contribute to the work programme.

Appendices

Appendix 1 - Work programme for audit and governance committee

Background papers

None identified.

Audit and 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								
a	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 and Internal Audit Charter Progress Report on internal audit plan (see part b for timing) Internal Audit Annual Opinion			Opinion					Internal Audit Plan and Audit Charter
b	To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary.	Progress Report on internal audit plan	Progress report	←			Progress report		Progress report	Progress report
c	To consider reports dealing with the management and performance of the providers of Internal Audit Services.									
d	To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.	Tracking of internal and external audit recommendations	→	Tracking Report			→	Tracking Report		
e	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								
f	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)								
3.5.11	External Audit	External Audit								
a	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 Auditor's Annual Report External Audit Annual Plan	Auditor's Annual Report						Annual Plan	Auditor's Annual Report
b	To consider specific reports from the External Auditor.	External Audit progress update	Progress Report						Progress Report	Progress Report
c	To meet privately with the External Auditor once a year if required.	Not required to be scheduled on work programme								
d	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								
e	To recommend appointment of the council's local (external) auditor.									
f	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.								
3.5.12	Governance									
a	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.	Accounting Policy Update Contract and Finance Procedure Rules Re-thinking Governance	Re-thinking governance report		Accounting Policy Update (if required) Contract and Financial Procedure Rules					
b	To monitor the effective development and operation of risk management and corporate governance in the council.	Work programme Corporate Risk Register	Work programme Corporate Risk Register (update received in April)	Work programme	Work programme	Work programme Corporate Risk Register	Work programme	Work programme Corporate Risk Register	Work programme	Work programme Corporate Risk register
c	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	Anti-fraud update as part of internal audit progress report	Anti-fraud, bribery and corruption policy				Whistleblowing	Annual update on anti-fraud, bribery and corruption	Anti-fraud update as part of internal audit progress report
d	To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.	Statement of Accounts								
e	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	→	Draft	Final					
f	The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance.	Annual Governance Statement Progress Report					Progress update			Progress update
g	To annually review the council's information governance requirements.	Information Governance Review						Annual review of information access / governance		

Audit and Governance Committee Constitution		Report	May	June	July	September	October	November	January	March
h	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								
i	To adopt an audit and governance code.									
j	To undertake community governance reviews and to make recommendations to Council.	On an ad hoc basis only								
3.5.13 Waste Contract										
a	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								
b	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								
c	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								
d	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								
3.5.14 Code of Conduct: To promote and maintain high standards of conduct by members and co-opted members of the Council										
a	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							Annual code of conduct report	
b	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								
c	To keep the code of conduct under review and recommend changes/replacement to Council as appropriate.	Part of Re-thinking Governance Review								
d	To publicise the adoption, revision or replacement of the Council's Code of Conduct.	Part of Re-thinking Governance Review								
e	To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment.	Recruitment done on an as required basis and not currently scheduled.								
f	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							Annual code of conduct report	
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								
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								
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 and Report			Statement of Accounts External audit findings report		