

Minutes of the meeting of the Audit and Governance Committee held in Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Monday 30 January 2023 at 10.15 am

Committee members present in person and voting: Councillors: Jenny Bartlett (Vice-Chairperson), Dave Boulter, Clare Davies, Nigel Shaw (Chairperson) and David Summers

Others in attendance: B Baugh (Democratic Services Officer), J Davies (Principal Auditor, South West Audit Partnership), I Halstead (Assistant Director, South West Audit Partnership), R Hart (Head of Strategic Finance), David Hitchiner (Leader of the Council), A Lovegrove (Director of Resources and Assurance), J Nelson (Counter Fraud Manager), M Pearce (Director of Public Health), A Reddy (Head of Corporate Performance) and A Rees-Glinos (Democratic Services Support Officer)

60. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Christy Bolderson and Peter Jinman.

61. NAMED SUBSTITUTES

There were no named substitutes.

62. DECLARATIONS OF INTEREST

No declarations of interest were made.

[Note: For the efficient transaction of business, the agenda items 'Questions from members of the public' and 'Questions from councillors' were taken before the agenda item 'Minutes' but the original agenda order has been retained in these minutes for ease of reference.]

63. MINUTES

The committee received and agreed the minutes of the previous meeting.

The action log for the committee was discussed, this is reflected in the updated action log.

RESOLVED:

That the minutes of the meeting held on 21 November 2022 be confirmed as a correct record and be signed by the Chairperson.

64. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 7 - 10)

The questions received and the responses provided, together with the supplementary questions put at the meeting and the subsequent written responses, are attached as appendix 1 to these minutes.

65. QUESTIONS FROM COUNCILLORS

No questions had been received from councillors.

66. PROGRESS REPORT ON INTERNAL AUDIT ACTIVITY

It was noted that, in addition to the papers in the main agenda pack, a supplement had been published which updated the committee on progress with the key findings and agreed actions in relation to the 'Public Health Grant Process: Final Report – November 2022'.

The Assistant Director for South West Audit Partnership (SWAP) presented the report on internal audit activity for quarter 3 2022, with attention drawn to the following:

- i. 28 audits were complete, 2 were in draft and 15 were in progress; 11 were planned for quarter 4. It was noted that there was work continuing on grant certifications and other activity but assurance work had increased over the second half of the year, with 78% of assignments providing an assurance opinion. It was reported that internal audit work was on track to deliver the programme and to provide an annual opinion.
- ii. Internal audit was aligned to corporate risks but could not cover every aspect.
- iii. The planning process for 2022/23 had commenced and the pipeline would be reviewed, with engagement with the corporate leadership team.
- iv. There were no high corporate risks identified in the quarter.
- v. The table of audits by status illustrated the current position.
- vi. The indicative opinion was of reasonable assurance, with a sound system of governance, risk management and control in place.
- vii. There was limited assurance opinion in relation to 'Public Health Grant Process: Final Report – November 2022' and the five Priority 2 and five Priority 3 findings were outlined.

The Director of Public Health provided a summary of the purpose and conditions of the public health ring-fenced grant allocated to the council by the government; this amounted to £9.7m per annum currently.

The committee discussed the report, the principal points included:

1. A committee member commented on the need for robust monitoring of funding which was passed to third parties to deliver public health services.
2. In response to a concern expressed by the Chairperson about the public health grant process findings, the Director of Resources and Assurance commented that this was not where the council wanted to be, thanked SWAP for the work undertaken to highlight these matters, noted that there was a clear plan to address the shortcomings, and anticipated that the issue would be referenced in the Annual Governance Statement.
3. In response to a question from the Chairperson, the Director of Resources and Assurance advised that concerns had not been raised by the Department for Health and Social Care (DHSC) but there was an ongoing dialogue to ensure that

public health outcomes were achieved; adding that the council spent more on public health than was received in government grant.

The Chairperson, on behalf of the committee, hoped that the DHSC would be reassured by the fact that internal audit work had been carried out and that areas for improvement had been identified.

4. In response to questions from the Vice-Chairperson, the Director of Public Health explained the intention to revisit the agreements with those service areas in receipt of public health funding annually to ensure that money was being spent on public health outcomes and there was alignment with the Joint Strategic Needs Assessment, and confirmed that any allocations that were unused within those service areas were retained for public health.
5. In response to questions from committee members: the Director for Resources and Assurance reported that any unspent public health grant went into an earmarked reserve; the Director of Public Health commented that the length of contracts with third parties varied and a piece of work had been undertaken to assess the state of the voluntary, community and social enterprise sector; the Director of Resources and Assurance confirmed that lists were published of the current contracts held with the council ([link to 'Contracts register'](#)) and council expenditure over £500 ([link to 'Council expenditure over £500'](#)).
6. The Vice-Chairperson commented that the wording in the management response to finding number 7 (supplement page 6/7) could be clearer.
7. In response to comments from a committee member about the visibility of public health funding allocated to third parties, the Chairperson noted that: this committee was focused on the adequacy of processes; informed by the published information, councillors could submit questions to relevant meetings or directly to the service concerned; and directors could utilise contract management or internal audit to examine any areas of concern to management function. The Director of Public Health said that he was fairly assured that robust contract management arrangements were in place and would be keen to explore this further with internal audit. It was noted that directors of public health were responsible for confirming that the grant had been spent on delivering public health outcomes.
8. In response to questions from the Chairperson, the Director of Public Health reported that: the public health team was relatively small, with seven full-time equivalent positions; there was not an embedded finance lead but there was a good working relationship with the finance team; changes in personnel had had an impact on continuity and oversight; and staff consultation would commence shortly on a potential new service structure.

Resolved: That the committee has:

- (a) noted the internal audit plan and pipeline of future work to ensure there is sufficient coverage and delivery to give an annual opinion;**
- (b) reviewed the areas of activity and concern and is satisfied that necessary improvements have been outlined and are being delivered; and**
- (c) considered the assurances provided and the recommendations which the report makes, and has commented on its content as necessary.**

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

67. CORPORATE RISK REGISTER

The Head of Corporate Performance introduced this item on the status of the council's corporate risk register and advised that a report was being prepared on strategic risks for consideration at the next committee meeting.

The committee discussed the report, the principal points included:

1. Responding to an observation that some risks appeared to be relatively static, the Head of Corporate Performance reported that risks rated with a score of 9 or higher would be reviewed by directorate leadership teams before any escalation, and the Corporate Leadership Team had committed to review any risks that were identified for escalation to the corporate risk register.
2. The Chairperson noted the committee's interest in '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' (action 99 refers) and said it would be helpful to understand better the risk mitigation being undertaken by the relevant directorate. Later in the meeting, the Chairperson suggested that this activity should feature in the work programme for the coming municipal year.
3. The Vice-Chairperson commented on the need to review the risk owner identified for risks CRR.67 to CRR.71 given that there was not an 'Interim Service Director, Environment, Highways and Waste' in the current organisational structure.
4. There was a brief discussion about the movement of risks between service, directorate, and corporate risk registers.
5. The Vice-Chairperson requested updates to risk EE.06 - Destination Hereford, given a reference to September 2022, and EE.14, given recent recruitment into the ecology team.
6. It was suggested that consideration be given to the inclusion of the date that each risk was last revised under each reference number.
7. In response to a question from a committee member about the effectiveness of certain bodies, such as the Health and Wellbeing Board, the Chairperson noted the remit of scrutiny committees and commented that any significant concerns may appear in directorate risks registers. It was noted that this committee considered the adequacy of the risk management framework. Later in the meeting, the Vice-Chairperson advised that the relevant risks registers were provided to scrutiny committee members to inform the work programming for the scrutiny committees.
8. The Chairperson drew attention to paragraph 9 of the report (agenda page 45) and, noting that there were higher numbers of directorate risks and corporate risks in Economy and Environment, questioned whether the level of risk being allocated was perceived in the same way across the directorates. Following a brief discussion, it was requested that an explanation be provided of how individual directorates identify and score risks in the next report.

RESOLVED:

That the report has been considered and further actions identified.

Action(s):

- 184 Further to action 99, opportunities for the committee to undertake a 'deep dive' into selected risks in the directorate risk registers be identified in the work programme for 2023/24.
- 185 Consideration be given to the inclusion of the date that each risk was last revised under each reference number.
- 186 An explanation be provided of how individual directorates identify and score risks in the next report.

68. ANTI-FRAUD, BRIBERY AND CORRUPTION ANNUAL REPORT

The Head of Strategic Finance introduced the report, with attention drawn to: the counter fraud activity during the previous calendar year, including an increase in new referrals and enhancements in terms of agile and partnership working; the counter fraud team had been shortlisted for the Local Excellence Award in the Public Sector Counter Fraud Awards 2023; work had been undertaken to raise awareness internally and externally, including a refresh of content on the website ([link to 'Our counter fraud service'](#)), the provision of additional training, and promotion of the International Fraud Awareness Week; and the 'Baseline Assessment of Maturity in relation to Fraud – December 2022' (Appendix A, agenda page 81) reflected improvements in culture and awareness, and reporting, investigating and monitoring.

In response to questions from committee members, the Counter Fraud Manager provided an overview of the 'Summary of Corporate Fraud case outcomes in 2022' (paragraph 15.1, agenda page 75), noting the need to consider proportionality in any investigation and the importance of collaborative working; said that further details could be provided about the treatment of fines arising from Blue Badge fraud cases; provided an overview of the national picture and limited law enforcement resources; reported that the counter fraud function at the council had commenced in 2020 and, with increased awareness and detection, referrals were being made from a range of services; and commented that cost of living pressures may be a further factor in incidents of fraud.

It was noted that the Baseline Assessment included one key finding which was 'assessed not to be in place / operating ineffectively – requires significant improvement'; namely, 'The fraud risk self-assessment issued in June 2022 has not been embedded in the corporate risk management process yet. Until this is implemented, the assessment results are not being maintained and may become obsolete.'

On behalf of the committee, the Chairperson complimented the team on the quality of the report, for publishing information about counter fraud activity, and for being shortlisted for a national award.

Resolved: That the annual fraud report has been reviewed by the committee.

Action(s):

- 187 Further details be provided about the treatment of fines arising from Blue Badge fraud cases.

69. WORK PROGRAMME

The updated work programme for the committee was considered and the potential need for an additional meeting was noted.

Resolved: That the updated work programme be agreed.

70. DATE OF NEXT MEETING

[Monday 13 March 2023, 2.00 pm](#)

The meeting ended at 12.55 pm

Chairperson

Audit and Governance Committee: Questions from members of the public**30 January 2023****Question 1:****From: Ms. Currie, Hereford**

Given multiple families claim that data breaches are happening in the social care directorate (missing/incorrect data). Can the council be clear to members of the public how they can get access to this information and how that it can be corrected. Special consideration is needed for families with children who are told by the information governance team they cannot access information held about themselves as it is contained on files relating to children. Yet the data subject is allowed to request why the data controller believes this is reasonable and is entitled to make representations.

Given the documented failures by Herefordshire Children's Services including doctored documents submitted to court why is this Council not giving clear instructions to this department for it to act with reasonableness and release the data due to competing interests and risk item CF.07?

Response to Question 1:

The information governance team do not refuse access to records under the subject access provisions of the Data Protection Act 2018. When processing requests the team have to carefully consider each document and its contents. I would like to clarify that this team is only able to provide you with information which relates to you as the data subject. There are a number of exemptions that could be applied to the records and these include any information regarding another person, as those individuals have a right to privacy; documents presented as part of a legal proceedings (which you may obtain from the courts); reports from other individuals where Herefordshire Council is not the data controller (copies would need to be obtained from the authors organisation) etc.

A guide to subject access requests is available on our website and it provides details about what you can expect to receive in response to requests.

<https://www.herefordshire.gov.uk/council/access-information/5>

With regards to disputes around inaccurate data held on files we have a clear process in place for these disputes to be raised and the relevant recordings to be made on file or corrections to be made. This process is detailed within the guidance on our website:

https://www.herefordshire.gov.uk/downloads/file/14086/your_personal_data_rights

Supplementary Question A:**From: Ms. Currie, Hereford**

Families effected state data the CYPD process is inaccurate. It is after proceedings conclude this missing/misleading documented information comes to light. One exemption being used is data is social work data not that it belongs to third parties.

Families know information has, had detrimental effects on decisions being made. Their position is it is the result of failing to upload/enter information by CYPD staff or the deletion of current information during data cleansing by admin staff. To support serious complaints about staff SARs are being made and refused. As a result this council need to ask it's representative, if this isn't due to incompetence/poorly trained staff and is (as the staff would like to claim) the IT system (Mosaic) responsible What steps have they taken to recover lost data/source a fit for purpose IT system in conjunction with those who would know what data is missing i.e. the families?

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Response to Supplementary Question A:

A full audit of every case file has been completed within Children's services. Where it has been identified that documents have not been uploaded to the system work has been undertaken to locate these documents and upload them to the correct file.

As advised we have a clear process in place for disputes about inaccurate data to be raised. This process is detailed within the guidance on our website:

https://www.herefordshire.gov.uk/downloads/file/14086/your_personal_data_rights

The right of access give individuals the right to request their information subject to exemptions. The right to rectification entitles individuals to have inaccurate personal data about them rectified. The Data Protection Act 2018 states that personal data is inaccurate if it is incorrect or misleading as to any matter of fact. Evidence to support this should be provided with the initial request to rectification.

Question 2:

From: Mrs. Portman-Lewis, Hereford

The Quarter 3 internal audit report shows that a whistle-blowing complaint about fraud in the Children's Directorate has been received. What is the process for dealing with whistle-blowing complaints to ensure there is no possibility of a cover up and in this case what was the outcome of the initial review into the complaint?

Response to Question 2:

Thank you for your question. The council's audit and governance committee's responsibility is to review the current and any future changes to the council's whistleblowing policy. The current whistleblowing policy can be found via this web-link:

<https://councillors.herefordshire.gov.uk/documents/s50101359/Part%205%20Section%205%20Whistleblowing%20Policy.pdf>

The monitoring officer will review the corporate register and produce an annual report for the chief executive and internal audit. The review will include a summary of the concerns raised, to which department they relate, the post to which the concerns related (if not confidential) and any lessons learned. The report will not include any employee names. The aim of this is to ensure that: the council and/or the relevant departments learn from mistakes and does not repeat them, and for consistency of approach across the departments.

The committee is unable to disclose matters in relation to individual whistle-blowing complaints.

Supplementary Question B:

As per point 5.5.18 in your whistleblowing policy, it is not clear if you routinely report unlawful acts to the police, allowing external agencies to conduct further investigation when such serious conduct issues such as fraud arise. In your quarter 3 audits report it states this happened, it is understood you're not able to report a name or detailed evidence but your answer remains cloudy at best & not in the spirit of transparency & openness.

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Therefore the officers rank should be clearly identified & the outcome from internal investigation shared in the public's best interest was the employee in question during your disciplinary process found guilty & dismissed with gross misconduct as a result?

Response to Supplementary Question B:

The Council does not routinely report unlawful acts to the police. However, if issues of criminality are identified then matters would be referred to the police if appropriate. The processes the Council uses to investigate Whistleblowing allegations are outlined in the Whistleblowing Policy. The Council does not discuss individual cases for legal reasons.

