

Agenda

Audit and Governance Committee

Date: **Monday 13 March 2023**

Time: **2.00 pm**

Place: **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

If you would like help to understand this document, or would like it in another format, please call Ben Baugh, Democratic services officer on 01432 261882 or e-mail ben.baugh2@herefordshire.gov.uk in advance of the meeting.

Agenda for the meeting of the Audit and Governance Committee

Membership

Chairperson **Councillor Nigel Shaw**
Vice-chairperson **Councillor Jenny Bartlett**

Councillor Christy Bolderson
Councillor Dave Boulter
Councillor Clare Davies
Councillor Peter Jinman
Councillor David Summers

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 of any member 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 interest in respect of items on the agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 30 January 2023. The updated action log for the committee is also attached.</p> <p>HOW TO SUBMIT QUESTIONS</p> <p>Deadline for receipt of questions is 9.30 am on Wednesday 8 March 2023. 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 - 24
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>RECRUITMENT OF INDEPENDENT PERSONS AND STANDARDS UPDATE</p> <p>To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To ensure that Independent Persons are appointed by the Council in accordance with the Localism Act 2011.</p>	25 - 36
8.	<p>WHISTLEBLOWING POLICY</p> <p>This report seeks to provide members with a revised Whistleblowing Policy for approval.</p>	37 - 56
9.	<p>REVIEW OF APPROACH TO STRATEGIC RISK MANAGEMENT</p> <p>To set out the principles and the approach that the Council is taking for managing corporate risks.</p>	To Follow

10. WORK PROGRAMME

To consider the work programme for the committee.

57 - 60

11. DATE OF NEXT MEETING

It is recommended that a further meeting date be arranged for April 2023.

The public's rights to information and attendance at meetings

In view of the continued prevalence of Covid, 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.

Thank you for your help in keeping Herefordshire Council meetings safe.

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.

Recording of meetings

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

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

The council may make a recording of this public meeting or stream it live to the council's website. Such recordings form part of the record of the meeting and are made available for members of the public via the council's YouTube channel.

Public transport links

The Herefordshire Council office at Plough Lane is located off Whitecross Road in Hereford, approximately 1 kilometre from the City Bus Station.

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 the Audit and Governance Committee

The Audit and Governance Committee comprises seven members of the council and may also include an independent person who is not a councillor but is appointed by council and has the same voting rights as other members of the committee.

Councillor Nigel Shaw (Chairperson)	Conservatives
Councillor Jenny Bartlett (Vice-Chairperson)	The Green Party
Councillor Christy Bolderson	Conservatives
Councillor Dave Boulter	Independents for Herefordshire
Councillor Clare Davies	True Independents
Councillor Peter Jinman	Independents for Herefordshire
Councillor David Summers	Independents for Herefordshire

The Audit and Governance Committee is responsible for proving assurance on the council's audit, governance (including risk management and information governance) and financial processes in accordance with the functions scheme.

The committee shall:

- (a) review and examine, and where required in depth examine, matters relating to internal audit, external audit, risk management, governance, assurance statement, 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.

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

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

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?

30 January 2023

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.

30 January 2023

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.

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 / Director of Strategy	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 be picked up following the appointment of a new Head of Corporate Performance. At the meeting on 27 June 2022, it was requested that consideration be given to the earlier completion of this action. Due date now identified as September 2022. This should be picked up as part of the work being taken forward by the Director of Strategy in looking at the council's approach to risk. At the meeting on 30 January 2023, with reference made to the Corporate Risk Register report (agenda page 44), it was noted 'The Director of Strategy will bring a report to the committee's meeting in March that sets out the principles and approach that the Council is taking to managing corporate risks strategically.'	01/11/2021 31 May 2022 November 2022 September 2022 October 2022 March 2023	
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	Internal audit recommendations are now included in service business plans, which are updated on a regular basis. Reports will be presented quarterly to directorate leadership teams, commencing from July. This should remove the potential for recommendations to be 'missed' in the event of a lead officer leaving, as well as increasing visibility of progress. At the meeting on 27 June 2022, it was requested that an example of a service business plan be provided in order to evidence completion. At the committee meeting on 12 October 2022, committee members confirmed that they wished to receive a briefing on the incorporation of audit recommendations in service business plans. At a briefing on 7 November 2022, an overview of the process was provided to committee members and a further briefing was requested to evidence that audit recommendations were being considered at meetings of directorate leadership teams. To be circulated to committee members during the week commencing 6 March 2023: Example screenshots to demonstrate this activity by directorate leadership teams.	01/09/21 30 April 2022 July 2022 September 2022 October 2022 January 2023 March 2023	Yes (subject to circulation) 13 March 2023
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 / Director of Strategy	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. This will be picked up following the appointment of a new Head of Corporate Performance. At the meeting on 27 June 2022, it was requested that consideration be given to the earlier completion of this action. Due date now identified as September 2022. This should be picked up as part of the work being taken forward by the Director of Strategy in looking at the council's approach to risk. [Update as per action 91] At the meeting on 30 January 2023, with reference made to the Corporate Risk Register report (agenda page 44), it was noted 'The Director of Strategy will bring a report to the committee's meeting in March that sets out the principles and approach that the Council is taking to managing corporate risks strategically.'	25/06/2021 30 April 2022 November 2022 September 2022 October 2022 March 2023	
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 Director of Resources and Assurance	Environment and Economy	The review of the spreadsheet is complete and this will be circulated to committee members shortly. At the committee meeting on 12 October 2022, the Director of Resources and Assurance advised that details of the Section 106 spreadsheet had been shared through a number of member briefings and would check with the Portfolio Manager whether this action could now be marked as complete. The Portfolio Manager has shared details of the Section 106 Spreadsheet through a number of Member briefings. This action is now complete. At the meeting on 21 November 2022, the committee noted that information on Section 106 monies held by ward had been provided to councillors but specific information on 'the value of unspent money which exceeds the payment dates' had not yet been circulated. At the meeting on 30 January 2023, the Director of Resources and Assurance offered to circulate a list outlining the current position with 'timed out' contributions. Update being sought via the action owner.	30/09/2021 30 April 2022 October 2022 March 2023	
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 Action 94 above.	24/11/2021 30 April 2022	
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 / Director of Resources and Assurance	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. At the meeting on 30 January 2023, the Director of Resources and Assurance said that the report was being drafted and had not yet been reported to Cabinet; it was noted that the report would focus on operational assets and investment assets. It was noted that details of Council land and property assets were published on the website: https://www.herefordshire.gov.uk/council/open-data-principles/3 To be circulated to committee members during the week commencing 6 March 2023: Property services new ways of working - informal brief.	30 April 2022 Report to Cabinet in Autumn 2022 March 2023	Yes (subject to circulation) 13 March 2023

Action Number	Meeting Date	Agenda item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
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 / Director of Strategy	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. This will be picked up following the appointment of a new Head of Corporate Performance. At the meeting on 27 June 2022, it was requested that consideration be given to the earlier completion of this action. Due date now identified as September 2022. This should be picked up as part of the work being taken forward by the Director of Strategy in looking at the council's approach to risk. [Update as per action 91] At the meeting on 30 January 2023, with reference made to the Corporate Risk Register report (agenda page 44), it was noted 'The Director of Strategy will bring a report to the committee's meeting in March that sets out the principles and approach that the Council is taking to managing corporate risks strategically.'	24/11/2024 November-2022 September-2022 October-2022 March 2023	
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.	Director of Governance and Law	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. Discussed at Group Leaders meeting on 8 June 2022 and agreed this would be implemented as soon as possible. Training to be scheduled. At the meeting on 27 June 2022, it was confirmed that two skills matrixes were being developed, a specific one for the Audit and Governance Committee and a broader one for all councillors. It was requested that the matrix for the committee be circulated to committee members (to be circulated with other action updates, week commencing 18 July 2022). A Members' Development Working Group meeting is to be scheduled for September 2022. The Director of Governance having considered the time remaining until the next election believes that a members skill questionnaire would be best introduced as part of the members' induction after the next local election.	May-2022 July-2022 September-2022 June 2023	
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. This will be picked up following the appointment of a new Head of Corporate Performance with the Interim Statutory Scrutiny Officer. At the meeting on 27 June 2022, it was requested that consideration be given to the earlier completion of this action given that there were interim officers in place for the Head of Corporate Performance and the Statutory Scrutiny Officer positions. Due date now identified as September 2022. This has not been progressed. A meeting will be held with the Statutory Scrutiny Officer to agree the approach so that internal audit recommendations can be more widely shared. At the meeting on 30 January 2023, it was noted that the permanent Statutory Scrutiny Officer was expected to be in position by the end of February 2023.	31-March-2022 November-2022 September-2022 October-2022 April 2023	
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 Law	Corporate Services	Information will be included in the next annual report. The annual report is due to be presented to the committee at its January meeting. This report will now be presented to the 13 March 2023 meeting.	September-2022 30-January-2023 13 March 2023	
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	This will be picked up following the appointment of a new Head of Corporate Performance. At the meeting on 27 June 2022, it was requested that consideration be given to the earlier completion of this action. Due date now identified as September 2022. Not yet progressed. To be picked up in discussion between Head of Corporate Performance and Performance Lead (E&E and Corporate Services). At the meeting on 30 January 2023, the committee invited officers to consider the inclusion of third parties in risk registers where appropriate.	November-2022 September-2022 October-2022 March 2023	
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	This will be picked up following the appointment of a new Head of Corporate Performance. This should be picked up as part of the work being taken forward by the Director of Strategy in looking at the council's approach to risk. At the committee meeting on 12 October 2022, it was suggested that the action owners be invited to identify a date for the workshop on the strategic risk register. At the meeting on 30 January 2023, the committee suggested that a workshop be progressed in the new municipal year. [Also see Action 184 below]	November-2022 June 2023	
149	10 May 2022	Re-thinking governance	In the further review of the constitution and for the purposes of clarity, the presentation of the audit and governance functions be considered, in order to separate them from the 'Other functions'. Plus updates on progress with the operational delivery of outstanding actions arising from the Re-thinking Governance Working Group.	Director of Governance and Law	Corporate Services	To be included alongside other amendments to Planning Functions as set out in the constitution. At the committee meeting on 12 October 2022, it was requested that the action be expanded to include updates on progress with the operational delivery of outstanding actions arising from the Re-thinking Governance Working Group; the chair of the working group was to liaise with the clerk to identify the key elements to include in this action.	October-2022 [Date to be confirmed]	
153	10 May 2022	Auditor's Annual Report 2020/21	That further details be provided on the governance and oversight arrangements for the boards referenced in the report (e.g. Hoople Ltd), with an indication of a timeline for any updated arrangements.	Director of Governance and Law / Director of Resources and Assurance	Corporate Services	Work has commenced on updating the contractual arrangements between the council and Hoople. The new arrangements will reflect the broader range of services being delivered by Hoople on behalf of the council and clarity on reporting and oversight. Work is on-going on in producing new contractual arrangements to be entered into between the council and Hoople and it is hoped that the new contract will be ready for approval by the end of November 2022. At the meeting on 30 January 2023, the committee noted that an item on 'Approval of the creation of a new shareholder committee and contractual arrangements with Hoople Limited' was considered by Cabinet on 12 January 2023 (https://councillors.herefordshire.gov.uk/mgIssueHistoryHome.aspx?Id=50043404). It was also noted that an item on 'Governance arrangements for Hoople' had been considered previously by the committee on 19 September 2018 (https://councillors.herefordshire.gov.uk/mgIssueHistoryHome.aspx?Id=50027602). The Director of Resources and Assurance added that an item on 'Hoople Ltd' featured on the work programme for the Scrutiny Management Board (14 March 2023). The Director of Resources and Assurance offered to circulate the business plan for Hoople to committee members. Further update: The business plan for Hoople is currently being updated for approval by the Hoople Board in March and will be circulated to committee members subsequently.	October-2022 November-2022 December-2022 March 2023	

Action Number	Meeting Date	Agenda item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
159 & 166	(155) 10 May 2022 (166) 27 June 2022	(155) Progress report on internal audit activity (166) Anti-Fraud, Bribery and Corruption Policy	(159) The member development team be invited to consider opportunities to enhance training for all members on raising concerns with statutory officers and on initiating call-ins and other scrutiny activity. (166) The Members' Development Working Group be invited to consider the most appropriate means to raise the awareness of councillors to the Anti-Fraud, Bribery and Corruption Policy and the Counter Fraud and Corruption Strategy.	Director of Governance and Law	Corporate Services	A Members' Development Working Group meeting is to be scheduled for September 2022. The Director of Governance having considered the time remaining until the next election believes that this activity should form part of the members' induction after the next local election. At the meeting on 30 January 2023, the committee requested that action 159 and 166 be combined for ease of reference.	September 2022 June 2023	
160	10 May 2022	Progress report on internal audit activity	Further information be provided to committee members on the timeline for moving non-capital items onto the Verto system.	Director of Resources and Assurance	Corporate Services	A paper will be presented to the September 2022 meeting. At the meeting on 30 January 2023, the Director of Resources and Assurance offered to circulate a paper to committee members. Update being sought via the action owner.	September 2022 March 2023	
171	25 July 2022	Update on internal audit recommendations	That an update on work being undertaken on significant partnerships be provided for the next scheduled meeting.	Director of Governance and Law	Corporate Services	Arrangements for the overview of Significant Partnerships are part of the broader work being undertaken in relation to companies to which the council is a shareholder. This work is ongoing. The Council has, for some time now, worked with external lawyers to review external companies in which the Council has shareholdings; Directorships and/or have granted loan finance to. This review has resulted in strengthened and structured arrangements for managing these key partnerships. Cabinet at its meeting on 12th January agreed the creation of a Shareholders Committee, composed of 4 members of Cabinet. This committee will meet publically and the normal rules of open government will apply to it. The Shareholder Committee will be responsible for making decisions on behalf of the Council in its role as shareholder. In addition, the Cabinet also considered and agreed the broad terms of a Services Agreement with Hoople Limited. At the meeting on 30 January 2023, the committee reflected on the limited information on other Significant Partnerships, including governance arrangements, and the action owner was invited to revisit this action. Further update: Work in relation to significant partnerships is ongoing and evolving, and with further discussions to take place with Internal Audit.	December 2022 September 2023	
176	25 July 2022	Update to finance and Contract Procedure Rules	Officers be delegated to make appropriate changes to Section 4.6.28 to reference sustainability considerations and environmental characteristics if this was possible from a technical perspective.	Director of Governance and Law / Director of Resources and Assurance	Corporate Services	At the committee meeting on 12 October 2022, it was confirmed that the updated Contract Procedure Rules had been published but publication of the updated Financial Procedure Rules was pending; links would be provided to committee members in due course. CPRs: https://councillors.herefordshire.gov.uk/documents/s50104260/Part%204%20Section%206%20Contract%20Procedure%20Rules.pdf FPRs: The Financial Procedure Rules and Guidance Notes have been finalised and will be published during the week commencing 6 March 2023.	October 2022 November 2022 March 2023	
177	12 October 2022	Draft Annual Governance Statement 2021/22	The new membership of the Audit and Governance Committee receive a briefing on Teckal arrangements and Hoople Ltd in the municipal year 2023/24.	Director of Resources and Assurance	Corporate Services	To be arranged following the appointments to committees by Council in May 2023. At the committee meeting on 21 November 2022, it was requested that the 'briefing on Teckal arrangements and Hoople Ltd' be provided in advance of the Scrutiny Management Board on 14 March 2023, as it was to consider an item on Hoople Ltd on that date. At the meeting on 30 January 2023, the Director of Resources and Assurance advised that the Scrutiny Management Board had requested an all encompassing report. It was noted that councillors had an opportunity to submit questions to or attend the Scrutiny Management Board.	July 2023 March 2023	
178	31 October 2022	Progress report on internal audit activity	The next progress report on internal audit activity include an update on the risk based approach for the audit work on grants and provide an indication of Herefordshire's position relative to other authorities in terms of the effective management of grants.	SWAP Internal Audit Services	SWAP Internal Audit Services	At the meeting on 30 January 2023, the Assistant Director SWAP indicated that this information should be available for the next committee meeting. Further update: It is intended that the Internal Audit progress report will be provided to the next available meeting.	January 2023 March 2023 April 2023	
179	31 October 2022	Progress report on internal audit activity	The scope of the ICT Governance Framework Review be provided to committee members.	SWAP Internal Audit Services	SWAP Internal Audit Services	To be circulated to committee members during the week commencing 6 March 2023: The scope for the framework review.	November 2023 March 2023	Yes (subject to circulation) 13 March 2023
180	31 October 2022	Corporate Risk Register	That it be suggested to the risk owners of EE.28 (Phosphate Pollution in Lugg Catchment) that further consideration be given to wider environmental and economic implications, and also to potential mitigations (e.g. the work of the Cabinet Commission - Restoring the Wye).	Head of Corporate Performance	Corporate Services	The current risk around phosphate pollution EE.28 focuses on the impact on housing development. The service is aware of the committee's observation(s) and the risk will be further developed to better consider the wider environmental and economic implications. This development (and possible new risk) will be available for consideration when the risk registers are next scheduled to be received by this committee.	November 2022 June 2023	

24

Action Number	Meeting Date	Agenda item	Action	Owner	Directorate	Progress Update	Due date	Reported complete
181	21 November 2022	Annual review of the council's information access and information governance requirements 2021/22	That the Information Governance Team provide further details on the impact of: the mandatory data protection impact assessments for new programmes, projects or systems that involve processing of personal data; and the data protection officer service level agreement for self-funding schools.	Information Governance Manager / Complaints and Childrens Rights Manager	Corporate Services	<p>The IG Team assisted with the completion of 28 Data Protection Impact Assessments (DPIAs) during the municipal year 2021/2022. The awareness within the organisation around the need to complete these assessments appears to be increasing year on year and we are getting some great engagement with officers across the organisation. We have introduced trigger points within both the procurement toolkit and the project management procedures, to ensure that the need to complete an assessment is identified at the earliest possible point. The completion of these assessments not only increases data protection knowledge for officers but it also helps identify other activities that need to be completed as part of the process such as reviewing privacy notices and drafting data sharing agreements. Directors are now required to sign off all DPIAs so that they have oversight of the risks that have been considered and any actions required to mitigate them. The IG team are very pleased with the awareness around DPIAs and the quality of assessments completed by officers.</p> <p>The IG Schools Service was launched in 2019 and the aim was to get as many schools signed up to the SLA as possible. We currently have 52 schools signed up which equates to roughly 50% of school's in Herefordshire. Information Governance and Data Protection can be a complex area with regular changes to legislation and school's often don't have the expertise and knowledge to deal with these matters.</p> <p>Herefordshire Council's Information Governance team has specialist knowledge and understand both the local and national context in which schools operate. We use our professional expertise to provide school-focused solutions across the full range of information governance matters (such as policy queries or complex data protection breaches) and individual information casework (such as Subject Access Requests (SARs), and Freedom of Information requests (FOIs)).</p> <p>Our service is primarily an unlimited telephone/email advisory service including the access to a dedicated Information Governance schools adviser. We provide the following services under the SLA which involves regular visits to schools.</p> <ul style="list-style-type: none"> • templates for data protection policies and procedures, contracts, SARs, privacy notices and data impact assessments • assistance with responding to data protection enquiries such as requests to amend inaccurate data • assistance with responding to requests made under data protection legislation such as FOI and SARs • assistance with record retention enquiries • liaison with the Information Commissioner's Office for requests for review, complaints and data breach reporting <p>At present the service is run by 1 FTE IG Officer and we therefore don't have the capacity to take on anymore schools however we are looking to offer a 'pay as you go' option to schools not sign up to the full SLA from April 2023.</p>	February 2023	Yes 13 March 2023
182	21 November 2022	Annual review of the council's information access and information governance requirements 2021/22	That a further breakdown be sought from the Community Safety Partnership about the outcomes in relation to the community trigger and what action had been taken in each instance.	Information Governance Manager / Complaints and Childrens Rights Manager	Corporate Services	<p>It is a requirement to publish information and here it is on the Herefordshire Council website, https://www.herefordshire.gov.uk/community-1/community-trigger. We will shortly be able to publish the 22/23 data.</p> <p>The reply/response letters sent to complainants has the following advice at the end of the letter.</p> <p>"If you wish to appeal against the outcome of this review, you are invited to contact the Chair of Herefordshire Community Safety Partnership, Councillor Ange Tyler via the access to information email address above. An appeal can be submitted within 10 working days of receipt of this letter. It is important to advise you that the Community Trigger does not replace an individual organisation's complaints procedure or your opportunity to complain to the Ombudsman, nor does it override the outcome of the organisations complaints procedure or Ombudsman response."</p> <p>We have only ever had one appeal and we were able to manage that appeal.</p>	February 2023	Yes 13 March 2023
183	21 November 2022	Annual review of the council's information access and information governance requirements 2021/22	The Chairperson write to the Chairperson of the Connected Communities Scrutiny Committee to highlight matters in relation to the community trigger.	Chairperson of the Audit and Governance Committee	-	An email was sent to the Chairperson of the Connected Scrutiny Committee on 10 February 2023.	February 2023	Yes 10 February 2023
184	30 January 2023	Corporate risk register	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.	Head of Corporate Performance / Director of Strategy	Corporate Services	To form part of future work programming for the committee.	June 2023	
185	30 January 2023	Corporate risk register	Consideration be given to the inclusion of the date that each risk was last revised under each reference number.	Head of Corporate Performance / Director of Strategy	Corporate Services	Review dates are included on risk registers, but omitted from the published version for presentational purposes. The dates can be included in future published registers.	June 2023	
186	30 January 2023	Corporate risk register	An explanation be provided of how individual directorates identify and score risks in the next report.	Head of Corporate Performance / Director of Strategy	Corporate Services	The current risk framework is used as the basis for the assessment of risks within each directorate, and further consideration given by the corporate leadership team for those risks that appear on the corporate risk register.	March 2023	
187	30 January 2023	Anti-Fraud, Bribery and Corruption Annual Report	Further details be provided about the treatment of fines arising from Blue Badge fraud cases.	Counter Fraud Manager	Corporate Services	Update being sought via the action owner.	April 2023	



Title of report: Recruitment of Independent Persons and Standards update

Meeting: Audit and Governance Committee

Meeting date: Monday 13 March 2023

Report by: Senior Lawyer, Corporate Services

Classification

Part exempt, Schedule 1 contains information which relates to individuals who are recommended for appointment.

This report is open but Appendix 1 is exempt by virtue of the paragraph 1 of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended, as it contains information related to any individual.

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To ensure that Independent Persons are appointed by the Council in accordance with the Localism Act 2011.

Recommendation(s)

That:

- a) Members recommend the full Council (at its AGM) appoint the Independent Persons set out in Appendix 1 for a four year term;**
- b) Members note the revised procedure to be used when dealing with complaints, set out at Appendix 2; and**
- c) Members note the new website pages.**

Alternative options

1. There are no alternative options as the Localism Act 2011 provides that the Council must appoint Independent Persons to help it deal with complaints and the standards process.

Key considerations

2. Herefordshire Council, and all parish, city and town councils in the county, have a statutory duty under the Localism Act 2011 to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.
3. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct and for administering the local standards framework. This work must be supported by Independent Persons, under the Localism Act 2011.

Independent Persons

4. Section 28(7) of the Localism Act requires that the council appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct. The Council has agreed that two Independent Persons will be consulted. Therefore there is a requirement for at least four Independent Persons, as there also have to be Independent Persons who can be consulted by the complainant. There needs to be separation between these roles, due to the potential for conflicts of interest, hence the requirement for at least four Independent Persons.
5. There are currently two Independent Persons appointed, as we received two resignations during 2022/23. The two Independent Persons are appointed until the AGM in May 2023. There is therefore an urgent need to appoint additional Independent Persons, and the Monitoring Officer is grateful for the work of the current Independent Persons during their term of office.
6. The Council is currently undergoing a recruitment exercise for additional Independent Persons, and we anticipate reporting the outcome to the Committee at its meeting. This is an unremunerated post, and the recruitment pack has been published (at the time of publication, this is available at [Recruitment of Independent Persons](#)). Recommendations for appointment are made by the Audit and Governance Committee to full Council, who are responsible for the appointment. Interviews are scheduled for 6 and 7 March, and the Chair of the Audit and Governance Committee has formed part of the interview panel with the Monitoring Officer.
7. The recommended appointments are set out at Appendix 1 (exempt document, to follow).

Code of Conduct

8. A revised standards procedure to investigate code of conduct complaints was endorsed by this Committee on 24 September 2019. A review of the arrangements was started in January 2021, however this was put on hold as a model code of conduct complaints process was due to be developed by the Local Government Association. The [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#) was published in September 2021. This has now been adapted for use by the Council and a copy of the Council's own procedure is attached at Appendix 2.

Annual Report

9. The Annual Report was not carried out in 2021, presumably due to the various changes in the Monitoring Officer at that time. To ensure that we report at an appropriate interval, we propose to bring the next Annual Report to the June meeting of the Committee, which will ensure that

reporting timescales can run for each municipal year. This will also allow for the new Independent Members to have an involvement with the annual sampling process and the Annual Report, and will form part of their induction.

Website

10. We have reviewed the Code of Conduct complaints area on the Council's website. It has been sitting within the corporate complaints section and we feel that this could potentially be confusing for members of the public. Therefore a dedicated webpage has been provided which contains links to all relevant information. In addition, complaints are now received into a dedicated inbox which should speed up the procedure and allow for better oversight by the Monitoring Officer and her staff.

Community impact

11. Having an effective process for dealing with code of conduct complaints upholds principles A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities

Environmental impact

12. There are no environmental impacts arising from this report.

Equality duty

13. 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.
14. 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. The recruitment of Independent Members has been carried out having regard to this duty, and we will be undertaking equalities monitoring in respect of the applications.

Resource implications

15. There are no resource implications arising directly from this report which is for information.
16. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the Monitoring Officer or other necessary office attendance.

Legal implications

17. The Council is required to comply with the duties required under the Localism Act 2011, in particular the appointment of Independent Members.

Risk management

18. There is a risk that there are no suitable candidates for the role of Independent Member and that a new recruitment exercise will be needed. If this is the case, then the Monitoring Officer would recommend that the recommendations to full Council for appointment are made by her, in consultation with the Chair of the Audit and Governance Committee, who is involved with the recruitment exercise.

Appendices

Appendix 1 Recommendations for appointment as Independent Persons (exempt document, to follow)

Appendix 2 Arrangements for dealing with complaints about the Code of Conduct for members

Background papers

None identified.



ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS

1. Introduction

This procedure applies when a complaint is received that a Herefordshire Council member, town/parish member or co-opted member, has or may have failed to comply with the adopted code of conduct for members at the time of the alleged breach.

2. Making a complaint

The person making the complaint will be referred to as “the complainant” and the person against whom the complaint is made will be referred to as the “subject member”.

A complaint **must** be made in writing, preferably using the standard complaint form available on the council’s website via the below link or by post on request:

https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved/7

The complaint must be submitted in writing by post or email to:-

The Monitoring Officer, Herefordshire Council, Plough Lane, PO Box 4, Hereford HR4 0XH

Code-of-conduct@herefordshire.gov.uk

Your complaint will normally be acknowledged on receipt of the complaint within five working days.

The Council may provide a summary of the complaint to the subject matter councillor at this stage and invite them to comment within 10 days.

The Council’s Monitoring Officer (the Director of Law & Governance) is responsible for managing the member complaints process on behalf of the Council.

3. Consultation with the Independent Person

The Council has to appoint Independent Persons under S28 Localism Act 2011, to work with the Monitoring Officer to support them with Code of Conduct complaints and standards issues. Independent Persons are people who are neither councillors nor officers of the Council.

- (a) The Monitoring Officer will seek and take into account the views of two Independent Persons before they decide that an allegation should be investigated; and
- (b) In circumstances other than a decision to investigate, the Monitoring Officer may seek and take into account the views of the Independent Person.

4. Preliminary Tests – two stages

(a) Legal Jurisdiction Criteria

The Monitoring Officer will assess the complaint, using the following criteria, to understand whether the Council can deal with the complaint:

- It is against one or more named members or co-opted members of the council or a town/parish council outside the council's area;
- The subject member was in office at the time of the alleged misconduct/or at the time of the complaint;
- The complaint relates to matters where the councillor was acting as a councillor or representative of the Council 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

Members are entitled to privacy in their personal lives and the provisions of the Code of Conduct only apply to members when they are acting as a member or co-opted member or as a representative of their Authority.

When reaching a decision as to whether the Code of Conduct applies to a member at a particular time, the Monitoring Officer will have regard to the particular circumstances and the nature of the conduct at that time.

If the complaint fails one or more of the legal jurisdiction tests, it will be rejected. i.e. 'Dismissed at Preliminary Stage (Legal Jurisdiction Criteria Test not met)'.

If the complaint satisfies the legal jurisdiction test, it will be assessed against the local assessment criteria test below.

5. Local Assessment Criteria

The Monitoring Officer will review the complaint against the below criteria:-

Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?

If the complaint contains insufficient evidence to demonstrate a potential breach of the Code, then the Monitoring Officer will advise the complainant that there is insufficient evidence to make a decision and unless or until further information is received, the authority will take no further action on the complaint. The complainant will be given a further 10 days to submit any additional evidence they want to present.

If the complaint contains sufficient evidence, the Monitoring Officer will consider the below local assessment criteria:-

1. Are there alternative, more appropriate, remedies that should be explored first?
2. Is the complaint malicious, politically motivated, or 'tit for tat'?
3. 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
4. Has a substantially similar complaint been considered and no material evidence has been submitted?
5. Has a substantially similar complaint been submitted and accepted?
6. Does the complaint relate to conduct in the distant past?
7. Has the behaviour already been dealt with?
8. Does the complaint relate to dissatisfaction with a local authority decision rather than conduct?
9. Is the complaint about someone who is seriously ill

If one or more of the local assessment criteria applies to the complaint, the complaint will be rejected i.e. 'Dismissed at Preliminary Stage (Local Assessment Criteria Test not met)'.

A decision on the initial assessment will be made within 15 working days of receiving the complaint. If the Independent Persons are asked for their views, this will be done at least a day before the deadline, and the views of the Independent Persons will be kept in writing.

6. Initial Assessment – Decision

The Council may reach one of the three following decisions on a complaint:-

- No further action should be taken
- The matter should be dealt with through a process of informal resolution in the first instance
- The matter should be referred for formal investigation

(a) No further action

Where the Council reaches this decision it will make it 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 further.

If the complaint is rejected the complainant will be advised of the decision. The subject member will also be advised of the decision, if they have been made aware of the complaint.

(b) Informal Resolution

Informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements. Matters which are suitable for informal resolution may include:-

- The same breach of the Code by many members, indicating a lack of understanding of procedures;
- A general breakdown of relationships, including between members and officers, of a minor nature
- 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 which may be more symptomatic of governance problems within the authority

Complaints will not be referred for informal resolution when an investigation is in the public interest.

If the Monitoring Officer considers, after consultation with the Independent Persons, that the complaint could be dealt with through informal resolution then the subject member and the complainant will be informed of this intention and given 10 working days to comment before the Monitoring Officer reaches a final decision. The purpose of this is to establish how successful the resolution might be and it does not give either party the right of veto.

Informal resolution may include training, apology or mediation. Informal resolution does not necessarily mean that a subject member has been found to have breached the Code of Conduct, as the matter has not been investigated.

Both parties will be informed by the Monitoring Officer of the action to be taken and the time scales in which it will be undertaken. They will also be advised on what will happen if the action is not undertaken. If within the timescales the relevant action is taken then the Monitoring Officer will notify both parties that the matter is then closed.

The Monitoring Officer will seek confirmation that the suggested resolution has been complied with. Where a subject member has categorically refused to comply with the proposed resolution, has failed to co-operate or has taken inadequate action then the Monitoring Officer will consider whether a formal investigation is needed, having regard to the public interest test and the agreed criteria within this procedure. The Monitoring Officer will consult the Independent Persons before making a decision whether to commence a formal investigation.

(c) Formal investigation

Where, in the opinion of the Monitoring Officer, following consultation with the Independent Persons, a formal investigation is required, the Monitoring Officer will appoint an investigating officer to investigate the complaint, gather further evidence and prepare a report.

The Monitoring Officer or the Investigator will advise the relevant parties so that they know who is dealing with the case, the scope of the investigation and what will happen next. The subject member will also be informed that they have the right to seek the views of the Independent Persons and be represented at any interviews with the Investigator.

In the event of a town or parish council investigation, a notice will be sent to the Parish Clerk (unless there is a conflict of interest, in which case it will be sent to the Chair or Vice Chair). The Monitoring Officer may set out what action they consider the town or parish council should take with regards the complaint and the requirements relating to confidentiality, given that standing orders may require the clerk to report the complaint to the town or parish council.

The scope of the delegation of the investigation will be kept in writing, and there will be agreed timelines for delivery of the report, usually within six months. Any extension of time will be agreed by the Monitoring Officer following consultation with the Independent Persons.

The Investigator may make inquiries of any person they think necessary, however there is no obligation for such persons to respond. /this will not delay the investigation, but it will be made clear in the Investigator's report.

During the investigation, there may be evidence of further breaches which extend beyond the scope of the investigation. These cannot be investigated and should be the subject of a separate complaint to the Council if necessary.

The Investigator can refer the investigation back to the Monitoring Officer at any point in the event that circumstances change during the investigation, and it will be for the Monitoring Officer to conclude whether the investigation should continue, after consulting with the Independent Persons.

If the matter has been deferred or ended the subject member and the complainant will be notified of the decision, and timescales if it has been deferred, unless the matter has been referred to the Police.

7. Deferral

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

- Ongoing criminal proceedings or a police/regulatory investigation
- The investigation cannot proceed without investigating similar conduct
- The investigation might prejudice another investigation or court proceedings
- Because of serious illness or genuine unavailability of a key party

Any deferred investigation will be kept under regular review and all parties will be notified once it is recommenced.

8. Confidentiality

All information gathered will be kept confidential and all those being interviewed will be asked to maintain confidentiality. Any draft report will be marked as confidential and all requests for information will be dealt with having regard to the relevant legislation.

9. Draft Report

The Investigator will produce a draft report which will be shared with the Monitoring Officer and the Independent Persons. It will contain the agreed and disputed facts, the Investigator's view on whether there has been a breach of the Code and their reasons for their conclusion. Once the Monitoring Officer is satisfied, it will be sent to the relevant parties with a deadline for comment. The Investigator is under no obligation to accept any comments from the parties, but where they do not, then they will make a note explaining why.

10. Completion of the Investigation

On completion of an investigation, the Monitoring Officer may decide:-

- to take no further action
- to seek to resolve the matter informally or
- refer the matter to a hearing

The matter will be regarded as complete if the Monitoring Officer receives the final report and accepts that no further investigation is necessary.

11. Hearing Panel

The final report will be sent to the subject member, complainant and Independent Persons and town/parish council if relevant.

Where appropriate, the Monitoring Officer will arrange for a Hearing Panel to meet and consider the allegation and report of the Investigating Officer and to determine the outcome of the complaint. The Hearing Panel will have regard to its Procedure for Conducting a Hearing.

The authority to make a determination of breach rests solely with the Hearing Panel.

12. Sanctions

Where a member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more of the sanctions below:-

- (a) Report its findings to Council or relevant Town/Parish Council
- (b) Recommend to the Council or Parish/Town Council that the member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand);
- (c) Recommend to the subject member's Group Leader, or Parish/Town Council, or in the case of an ungrouped Member to the Council, that they be removed from Cabinet, committees or sub-committees of the Council;
- (d) Recommend to the Leader of the Council that the member be removed from positions of responsibility
- (e) Instruct the Monitoring Officer, or recommending to the Parish/Town Council, to arrange training for the member;
- (f) Recommend to the Council or Parish/Town Council that the member be removed from one or more outside appointments to which they have been appointed or nominated by the Council or Parish/Town Council;
- (g) Recommend to the Council or Parish/Town Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and internet access, for a specified period
- (h) Recommend to the Council or Parish/Town Council the exclusion of the member from the Council or Parish/Town Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council or Parish/Town Council committee and sub-committee meetings
- (i) If relevant, recommend to Council/political group that the subject member be removed from their role as Leader of the Council or group Leader or other position of responsibility

13. Determination – Hearing Panel

The complainant and the subject member will be informed of the Hearing Panel's determination. The decision notice will be published on the Council's website and reported to the Audit & Governance Committee.

Title of report: Whistleblowing Policy

Meeting: Audit and Governance Committee

Meeting date: Monday 13 March 2023

Report by: Senior Lawyer, Corporate Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

This report seeks to provide members with a revised Whistleblowing Policy for approval.

Recommendation(s)

That:

- a) **Members agree the revised Whistleblowing Policy and associated guidance set out at Appendix A**

Alternative options

1. Not to agree the Whistleblowing Policy. This is not recommended as members have previously agreed that the policy is in need of revision.

Key considerations

2. At its meeting on 21 November 2022, members noted that there was a need to simplify the Whistleblowing Policy and provide further guidance for staff. The revised policy has been simplified and made clearer for both staff and managers to operate, and includes a checklist for managers on how they should deal with whistleblowing concerns.
3. The revised Policy also provides alternative routes for staff to raise whistleblowing concerns in the event that they do not want to discuss these with their manager; they can contact the Monitoring Officer direct and they are also signposted to the Council's fraud hotline if the matter concerns financial irregularities, as well as external bodies. The Monitoring Officer is

appointed by the Council and has a statutory duty under S5 Local Government & Housing Act 1989 to prepare a report to the Council in the event that they become aware of maladministration or any unlawful action on the part of the Council.

4. The revised policy also includes a provision to allow it to be used by staff at maintained schools, if they are unable to raise their concern within their own school. This is in accordance with guidance issued by the Department of Education.
5. Members were advised at their November meeting that external companies provided whistleblowing hotlines, and that this area would be explored. We have contacted two providers who run whistleblowing hotlines as part of their employee assistance work, for quotations to provide an external service. These costs range from £1380-£4500 p.a. as set out in Section 13. We have also contacted Buckinghamshire Council who currently provide this service and a verbal update will be given on whether they are willing to continue.
6. The number of whistleblowing cases has been fairly consistent over the last four years, ranging from between 6-8 cases p.a. This consistency would indicate that the figures are probably correct, even if they have not been held in a single place. Given the low level of external use (2 last year) it would seem disproportionate to employ a company to provide a service and hold data for the Council, particularly as there are a number of external organisations which whistleblowers can use in the event that they feel uncomfortable with reporting internally. These external organisations are highlighted in the whistleblowing policy.
7. The Monitoring Officer does not therefore recommend that an external company be used, and the Whistleblowing Policy now clearly highlights alternative avenues which whistle-blowers can use. The new Policy also provides that the Monitoring Officer must receive notification of all whistleblowing complaints, and this will allow for them to be tracked and reported centrally for the future.
8. As part of the Council's agreement with the trade unions, (GMB, UNISON and Unite) they must be consulted on policy changes affecting staff, including the whistleblowing policy. All three unions have been sent the revised policy for approval, but none raised particular concerns with the policy and have not provided feedback.

Community impact

9. Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law. The confidential reporting code is part of the council's governance arrangements and helps safeguard public funds. Periodic reviews to ensure the code remains current, fit for purpose and effective helps the council to meet the principles within its code of corporate governance.

Environmental impact

10. There are minimal environmental impacts in the Whistleblowing Policy though of course any environmental concerns can be raised under the policy.

Equality duty

11. 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.

12. The revised Whistleblowing Policy fully complies with the public sector equality duty as all members of staff are able to raise a concern in a number of ways, and an equalities impact assessment is attached.

Resource implications

13. The Council obtained quotes from two providers for an external service. All prospective providers have been made aware that the average number of whistleblowing cases p.a. is 6-8 cases, and that two were external referrals last year.

Revenue budget implications	2023/4 One-off	2023/4 Recurring	Comments
<i>Provider A</i>	£1000	£4500	Hotline, web and case management software
<i>Provider B</i>	None	£1 per member of staff covered (approx. 1340 staff)	24/7 hotline, translation, web reporting

14. Buckinghamshire Council provided external support to the Council for two external cases last year, at a cost of £780. In the event that it is felt that independent investigations are needed, then the Council is still able to commission external support to carry this out, but doing so on an 'ad hoc' basis would mean that the support could be tailored to the area of concern and a relevant specialist could be utilised, if needed.

Legal implications

15. Legal implications are set out in the body of this report.

Risk management

16. Failure to maintain a legally compliant whistle blowing policy could contravene employment law and leave the council open to challenge with associated financial penalties and bring the council into disrepute.

Consultees

17. All three unions (Unite, Unison and GMB) were advised of the review and asked for their views on any areas they thought need considering as part of the review. They did not provide any

comments but have now received a copy of the draft policy for comment. At the time of writing their views have not been received.

Appendices

- A. Whistleblowing Policy
- B. Equalities Impact Assessment

Background papers

None

Section 5 – Whistleblowing Policy

5.1 Purpose

This policy is intended to cover concerns that fall outside the scope of other existing Council procedures (e.g. complaints procedures, safeguarding reporting and employment policies and procedures).

If something is troubling you, which you think we should know about or look into, please use this policy and the procedures below. If, however, you wish to make a complaint about your employment or how you have been treated, please use existing employment (HR) policies and procedures (e.g. grievance policy, which you can obtain from your manager or HR).

Whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance once other relevant employment procedures have been exhausted.

You should only consider raising concerns through Whistleblowing arrangements if:

- You have genuine reasons why you cannot use the above policies and procedures;
or
- You have reason to believe that these policies are failing or are not being properly applied; **and** in any case;
- There is a public interest aspect.

5.2 Scope

This policy applies to all those who work for Herefordshire Council, whether full time or part-time, employed or working through an agency. It also applies to staff working for Hoople and any other contractors that have adopted the Council's Whistleblowing Policy.

If you are an employee at a Council maintained school, then your school should have its own whistleblowing policy which you should use. However if you feel that you cannot report your whistleblowing at your school, then you can raise your concern with the Council through whistleblowing@herefordshire.gov.uk and this policy will apply to you.

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact the independent whistleblowing charity Protect on 020 3117 2520 or by e-mail to whistle@protect-advice.org.uk.

Further detail on this is available at <http://protect-advice.org.uk>

This service is available to all employees of the Council and allows you the opportunity to speak freely about your concerns, discuss all related issues and receive practical, constructive advice.

5.3 Introduction

Sometimes you may have concerns about what is happening at work. In most cases these concerns can be dealt with through the usual line management arrangements and are easily resolved. However, if that is not possible or if your concern feels more serious because it may relate to illegal, improper or unethical conduct and could threaten service users, colleagues, public or the Council itself then you may wish to use the whistleblowing procedures as an alternative.

The Council is committed to running the organisation in the best way possible and to do so we need your help. Experience shows that employees are often the first to realise that there may be something seriously wrong or often have worries or suspicions and could, by reporting their concerns help put things right and stop potential wrongdoing.

We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concerns you may have at an early stage, and in the right way.

5.4 What is Whistleblowing?

Whistleblowing is the formal raising of concerns that are in the public interest. A whistleblower is generally a term used for a person who works for an organisation and raises a concern about a danger or illegality that has a public interest aspect to it, usually because it threatens others (service users, colleagues, public).

Examples of concerns that may be in the public interest (this list is not exhaustive):

- Criminal offences (Fraud, Corruption, Bribery etc.);
- Failure to comply with legal obligations;
- Actions which endanger the health or safety of any individual;
- Actions which may cause damage to the environment;
- Actions which are intended to conceal any of the above.

This policy provides you with a framework for raising concerns, which you believe are in the public interest.

5.5 Public Interest Disclosure Act

The Public Interest Disclosure Act 1998 (PIDA) protects individuals who make certain disclosures of information in the public interest and provides that employers must not victimise any worker who blows the whistle in one of the ways set out in the legislation. This policy complies with PIDA.

5.6 Our Commitment to you

Your safety

We recognise that you may be worried about formally raising a concern for a number of reasons:

- Fear of reprisal or victimisation (e.g. loss of job);
- Too much to lose (reputation, damage to career etc.);
- Feelings of disloyalty;
- Worries about who may be involved;
- Concerns that there is no proof, only suspicions;
- Fear of repercussions if there is no evidence or you are proved wrong.

The Corporate Leadership Team, Chief Executive and Trade Unions are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any reprisal such as harassment, victimisation or bullying. Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

Your confidence

We would like to assure you that if you raise a concern:

- 'Openly' - we will protect you from reprisal;
- 'Confidentially' - we will protect you from reprisal and will not disclose your identity, without your consent, unless required by law.

As mentioned we will endeavour to protect your identity wherever possible; however, you must understand that there may be circumstances where this is not feasible. For example, if you are an essential witness and further investigation would be prevented without revealing your identity or the concern could only have come from one service. Should this situation arise, we will discuss directly with you, whether and how the matter can best proceed.

If you raise a concern 'anonymously', we will not be able to protect your position and if you experience victimisation it will make it very difficult to link it to the fact that you raised whistleblowing concerns, as your manager and others will not know you have done this. We would also be unable to provide you with feedback, or seek any further information from you.

If you are already the subject of disciplinary, capability or redundancy procedures for other reasons, whistleblowing will not halt these procedures - but every effort will be made by the investigating officer(s) to ensure that the issues are not inter-related or connected in any way.

5.7 Raising your concerns

We hope that the assurances above allow you to raise your concern internally and openly with us. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made. You may also choose not to identify yourself at any stage, to anyone, but we do not encourage anonymous reporting as the concerns are

more difficult to investigate and we are unable to offer you the same protection as an open or confidential whistleblower.

We trust that you will:

- Raise concerns at an early stage (i.e. when you have reasonable suspicion);
- **Not** wait and investigate yourself, or wait to prove that your concern is well founded.

If you are unsure about raising a concern at any stage, you can get independent advice from Protect (the independent charity whose details are above).

Step one

The seriousness of the issue may influence who you decide to raise it with, but we hope that in the first instance, you will raise it with your immediate line manager. If this is not practical (for whatever reason), please raise the concern with another senior officer (Head of Service) or Director.

This may be done verbally or in writing and we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern, including background and history giving names, dates and places where possible. If you have any personal interest in the matter, we do ask that you tell us at this stage.

Step two

If you feel unable to raise the matter with any of the above (for whatever reason) please raise the concern with the Monitoring Officer (whistleblowing@herefordshire.gov.uk). The Monitoring Officer (Director of Governance & Legal Services) is the officer with overall responsibility for this policy, and they will arrange for you to be contacted and for the matter to be dealt with independently of your own service area. The Monitoring Officer has a legal duty under S5 Local Government & Housing Act 1989 to report to the Council any instances of non-compliance with the law or maladministration.

Step three

If these channels have been followed and you still have concerns, or you feel that the matter is so serious that you cannot discuss it with any of the above, you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator - such as the Care Quality Commission, Ofsted, your professional regulator - than not at all. There is a list of bodies to whom you can make a referral if you wish to do so: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies>
[Protect](#) (details above) will be able to advise you on such an option if you wish.

You may also find it helpful to consider other relevant Council policies including, for example, the Anti-Fraud, Bribery & Corruption Policy which are available on the Council's website or at [Anti Fraud Bribery and Corruption Policy \(herefordshire.gov.uk\)](https://www.herefordshire.gov.uk/anti-fraud-bribery-and-corruption-policy)

5.8 How we will handle the matter

Once you have told us of your concern, the person you have reported it (either your line manager, head of service, director under step one above, or the Council's Monitoring Officer

under step two) to will assess it and consider what further action may be needed. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take - these will be made confidentially. They will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If they think your concern falls more properly within our existing complaint or employment policies and procedures, they will let you know.

The further response will depend on the nature of the concern and may be:

- Advice only;
- Resolved by agreed action without the need for investigation;
- Investigated internally;
- Referred to the relevant safeguarding team;
- Referred to the Police;
- Referred to the external auditor;
- The subject of an independent inquiry.

Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

5.9 Responsible Officer

The Monitoring Officer (Director of Law and Governance) has overall responsibility for the maintenance and operation of this Whistleblowing Policy. This officer maintains a record of concerns raised and the outcomes (in a form which does not endanger employee confidentiality) and will report as necessary to the Audit & Governance Committee.

Appendix A - Procedure for Managers Receiving a Concern

These procedures should be used in conjunction with the Whistleblowing Policy.

1. Managers receiving the whistleblowing concern

It is important that you listen carefully to the concern being raised and avoid pre-judging the issue. If you feel unable to do this, the employee should be encouraged to raise the concern with a more senior officer or the Monitoring Officer.

2. Establish the details of the concern

You should complete the [whistleblowing checklist](#).

3. What happens next?

Step 1 - Explain to the employee what will happen next

- Now that I have listened to and recorded your concern, I will assess it and consider what further action may be needed and I will consult the Monitoring Officer to assist me in this.
- Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take – but you will not be involved in this process;
- I will tell you who will be handling the matter, how you can contact them, and what further assistance they may need from you (or they may contact you direct regarding this).
- If the person dealing with your concern thinks it falls more properly within our existing complaint or employment policies and procedures, they will let you know;

Step 2 - Record the concern

You **must** contact the Monitoring Officer to make them aware you have received this concern and to agree how it will be dealt with. The concern will be held on a central log by Monitoring Officer and will be routinely reviewed by them (or their designated officer) to ensure all cases are dealt with appropriately.

Step 3 - Assess if wider investigation is needed

You should consider the information in the context of what you know about the particular area or activity and the information the employee provides. The first issue to be decided is whether the concern is best dealt with under the Whistleblowing Policy or some other existing policy/procedures. You should seek assistance from the Monitoring Officer to assist you in deciding this, and the Monitoring Officer will advise how the matter should be taken forward.

Whistleblowing is about serious matters of public concern (examples are given in the policy); it is not about whether the whistleblower agrees with the approach or ethos of the service. Thus, a complaint that the service is not sufficiently helpful or is not engaging with the community effectively is not whistleblowing concern.

Concerns or allegations which fall within the scope of specific existing procedures (HR, Safeguarding, etc.) should normally be referred for consideration under those procedures.

Step 4 - Assess if anyone else should be involved

Depending on the nature of the concern you may also:

- Report the concern to your Director;
- Report the concern to HR who will be able to provide any support or additional assistance if required;
- Subject to taking advice from the Monitoring Officer, refer the matter to an external body.

Whistleblowing Checklist for person receiving concern - [Information required:](#)

Directorate and Service Area:		
Name of manager receiving concern:		
Name of employee raising concern:		
Date:		
Has the employee requested confidentiality?	<u>Yes</u>	<u>No</u>
If above answer is yes, please explain the caveat below*		

*we will not disclose your identity, without your consent, unless required by law. For example, if you are an essential witness and further investigation would be prevented without revealing your identity or the concern could only have come from one service. Should this situation arise, we will discuss directly with you, whether and how the matter can best proceed.

Questions

<u>Q1</u>	<p>Please provide some background and history of the concern, stating where possible:</p> <ul style="list-style-type: none"> • Names; • Dates; • Places; • Whether the information is first hand or hearsay; and • If the concern on-going or historic
------------------	---

Notes

Q2 When did the concern first arise and where relevant, what is prompting the decision to speak up now?

Notes

Q3 What is alleged by the employee? What is their concern?

Notes

Q4 Where the employee is voicing to someone other than their line manager (senior officer or designated officer), whether the employee has raised the concern with their line manager, why not and if so, with what effect

Notes

Q5 Is the employee is anxious about reprisal?

Please reassure:

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any reprisal such as harassment, victimisation or bullying. Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

If you do experience problems, the council will treat any reprisals as a disciplinary matter. But please note, that the above assurance is not extended to those who maliciously raise a concern that they know is untrue.

Q6 Is there anything else relevant the employee should mention?

Notes

Next Steps – explanation to be given

- Now that I have listened to and recorded your concern, I will assess it and consult the Monitoring Officer to consider what further action may be needed;
- Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take – but you will not be involved in this process;
- I will tell you who will be handling the matter, how you can contact them, and what further assistance they may need from you (or they may contact you direct);
- If I think your concern falls more properly within our existing complaint or employment policies and procedures, I will let you know. I will seek advice on this from the Monitoring Officer or HR.

Feedback

- Whenever possible, we will give you feedback on the outcome of any investigation;
- BUT we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

Signature

<u>Manager receiving concern</u>	<u>Employee reporting concern</u>

The completed checklist should then be sent to whistleblowing@herefordshire.gov.uk for inclusion in the central log. This is held by the Monitoring Officer and names/identities are not disclosed.

Equality Impact Assessment (EIA) Form

Please read EIA guidelines when completing this form

1. Name of Service Area/Directorate

Name of Head of Service for area being assessed: Claire Porter, Monitoring Officer

Directorate: Governance & Legal Services

Individual(s) completing this assessment: Deborah Upton

Date assessment completed: 14 February 2022

2. What is being assessed

Activity being assessed (eg. policy, procedure, document, service redesign, strategy etc.)

Whistleblowing Policy

What is the aim, purpose and/or intended outcomes of this activity?

To provide staff with an outlet to raise concerns regarding the Council and its activities

Name of lead for activity

Claire Porter, Monitoring Officer and all individual members

Who will be affected by the development and implementation of this activity?

- Service users
- Patients
- Carers
- Visitors
- Staff
- Communities
- Other:

Is this:

- Review of an existing activity/policy
- New activity/policy
- Planning to withdraw or reduce a service, activity or presence?

What information and evidence have you reviewed to help inform this assessment? (name your sources, eg. demographic information for services/staff groups affected, complaints etc.)

Previous whistleblowing concerns

Summary of engagement or consultation undertaken (eg. who and how have you engaged with, or why do you believe this is not required)

Trade Unions

Summary of relevant findings

This policy is not materially different to previous whistleblowing policies and provides a mechanism for all staff groups to raise concerns either to their line manager or the Monitoring Officer or an external organisation. Therefore it offers a choice as to the route used in the event that an individual feels uncomfortable accessing one or more routes offered.

3. The impact of this activity

Please consider the potential impact of this activity (during development and implementation) on each of the equality groups outlined below. **Please tick one or more impact box below for each Equality Group and explain your rationale.** Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on staff, public, patients, carers, partner organisations, etc. in these equality groups.

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Age		✓		The policy allows for concerns to be raised by all staff members, and provides additional routes to raise issues if individuals have concerns with their line manager or others within the organisation. It provides a list of external organisations which staff can contact and there are multiple channels of choice for staff. Complaints regarding the unfair treatment of staff are not a matter for the whistleblowing policy and are determined under existing HR policies.
Disability		✓		As above
Gender Reassignment		✓		As above
Marriage & Civil Partnerships		✓		As above
Pregnancy & Maternity		✓		As above. This policy can still be used by a staff member who is on maternity leave
Race (including Travelling Communities and people of other nationalities)		✓		As above
Religion & Belief		✓		As above
Sex (including issues of safety and sexual violence)		✓		As above
Sexual Orientation		✓		As above
Other Vulnerable and Disadvantaged Groups (eg. carers, care leavers, homeless, social/ economic deprivation, etc)				Not applicable as this policy only applies to staff
Health Inequalities (any preventable, unfair & unjust differences in health status between groups, populations or individuals)				Not applicable as this policy only applies to staff

Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
that arise from the unequal distribution of social, environmental & economic conditions within societies)				

What actions will you take to mitigate any potential negative impacts?

Potential negative impact	Actions required to reduce/eliminate negative impact	Who will lead on action?	Timeframe
There are no negative impacts identified			

Where an impact on any of the Equality Groups is realised after the implementation of the project/service/policy, the commissioners and/or providers of the project/service/policy will seek to minimise the impact and carry out a full review of this EIA.

4. Monitoring and review

How will you monitor these actions?

When will you review this EIA? (eg in a service redesign, this EIA should be revisited regularly throughout the design & implementation)

5. Equality Statement

- All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics.
- Herefordshire Council will challenge discrimination, promote equality, respect human rights, and design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.
- All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carers etc, and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics.

Signature of person completing EIA

Date signed



Title of report: Work programme

Meeting: Audit and Governance Committee

Meeting date: 13 March 2023

Report by: Democratic Services Officer

Classification

Open

Decision type

This is not an executive decision.

Wards affected

(All Wards)

Purpose

To consider the committee's work programme (Appendix A).

Recommendation(s)

- (a) That, subject to any further updates made by the committee, the work programme for the Audit and Governance Committee be agreed; and**
- (b) That a further meeting be arranged for April 2023.**

Alternative options

- 1. There are no alternative options, as the committee requires such a programme in order to set out its work for the coming year.
- 2. Updating the work programme is recommended, as the committee is required to define and make known its work. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.

Key considerations

- 3. The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.
- 4. With reports expected to be received during this municipal year from External Audit and Internal Audit, it is proposed that a further meeting be arranged for April 2023.

5. The committee is asked to consider any further adjustments.

Community impact

6. 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

7. 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

8. This report does not impact on this area.

Resource implications

9. There are no financial implications.

Legal implications

10. The work programme reflects any statutory or constitutional requirements.

Risk management

11. 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

12. The Director of Finance and Assurance / S151 Officer, Director of Governance and Legal Services / Monitoring Officer, and committee members contribute to the work programme; the work programme is reviewed at each meeting of the committee.

Appendices

Appendix A Work programme for the Audit and Governance Committee

Background papers

None identified.

Audit and Governance Committee Constitution		Report	May	June	July	September	October	November	January	March	Proposed meeting for April 2023	To be re-scheduled 2023/24
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) Auditor's Annual Report External Audit Annual Plan		External Audit Plan (including indicative fee)			External Audit Findings Report		➡	➡	Auditor's Annual Report External Audit Plan	
b	To consider specific reports from the External Auditor.	External Audit progress update	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						➡	Re-presentation of the Constitution
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	Work programme	Work programme	Work programme	Work programme Corporate Risk Register	Work programme Corporate Risk Register	Work programme Corporate Risk Register	Work programme Corporate Risk Register	Review of approach to strategic risk management	
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	Update on Whistleblowing Policy ➡	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			Statement of Accounts		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 AGS	Final AGS					
f	The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance.	Annual Governance Statement Progress Report							➡	➡	➡	AGS Progress Update

Audit and Governance Committee Constitution		Report	May	June	July	September	October	November	January	March	Proposed meeting for April 2023	To be re-scheduled 2023/24
g	To annually review the council's information governance requirements.	Information Governance Review						Annual review of information access / governance				
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				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				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				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				Energy from Waste Loan Update						
g												
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	Re-thinking Governance									
c	To keep the code of conduct under review and recommend changes/replacement to Council as appropriate.	Part of Re-thinking Governance Review	Re-thinking Governance									
d	To publicise the adoption, revision or replacement of the Council's Code of Conduct.	Part of Re-thinking Governance Review	Re-thinking Governance									
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 of Accounts						