

Minutes of the meeting of the Audit and Governance Committee held in Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Tuesday 29 October 2024 at 2.00 pm

Committee members present in person and voting: Councillors: Chris Bartrum, Frank Cornthwaite, Robert Highfield, David Hitchiner (Chairperson), Aubrey Oliver and Mark Woodall (Vice-Chairperson)

Non-Voting Committee Person: Ms K Diamond – Independent Expert

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

Others in attendance:

S O'Connor	Head of Legal Services and Deputy Monitoring Officer
J Preece	Democratic Services Officer
A Probert	Principal Auditor, South West Audit Partnership
R Sanders	Director of Finance
P Stoddart	Cabinet Member Finance and Corporate Services
C Yarnold	Head of Regulation and Technical Services

15. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor Peter Hamblin.

16. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

17. DECLARATIONS OF INTEREST

No declarations of interest were made.

18. MINUTES

RESOLVED:

That the minutes of the meeting held on 26 September 2024 be confirmed as a correct record and signed by the chairman.

19. QUESTIONS FROM MEMBERS OF THE PUBLIC (PAGES 7 - 10)

Questions received and responses given are attached as a supplement to the minutes.

20. QUESTIONS FROM COUNCILLORS

There were no questions received from Councillors.

The Chair used his discretion to ask the Cabinet Member Finance and Corporate Services (CMFCS) for an update with regards to the improvement works being undertaken on the council's website.

The CMFCS advised that work was being undertaken in two phases. Phase one had started, which was around looking at the content management system (CMS) and would be completed by August 2025.

Phase two would be looking at improving the look, feel and functionality of the website.

The CMFCS confirmed that phase one needed to be completed in order to make improvements to the search engine facility.

21. INTERNAL AUDIT UPDATE REPORT QUARTER 2 2024/25

The Head of Internal Audit (HIA) introduced the report the purpose of which was to update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed and to assure the committee that action was being taken on risk related issues identified by internal audit. The principal points were noted:

- No high organisational risks had been identified.
- No limited assurances to be reported.
- 6 priority two actions had been agreed as part of the foster placement's audits.
- 9 assignments have been completed since the last progress report with 5 assignments currently in progress and 1 at draft report stage.
- Since the last report and at the request of the committee, the coverage dashboard had been developed to include coverage of future proposed audits. The committee were reminded this could be viewed in more detail in real time using the Auditboard programme.
- Action tracking since the previous report had been successful with 42 actions having been completed. Work would continue with officers to either close outstanding actions, or, if necessary, agree a revised implementation date.
- 34 actions were reported as being over 90 days overdue and were their focus of attention.
- A continued high feedback score of 99% was still being achieved although feedback rates had declined since the last committee. It was thought this was due to timings and it was hoped they would see an improvement in the next report.

In response to committee questions, it was noted:

1. The HIA would adjust the visual presentation used to identify the coverage. Currently where no audits are planned, the dashboard is coloured red, which the committee felt gave a negative perception. It was explained that not everything could be audited and there would be other assurances/ mitigating risks that the council has in place for each area.
2. The HIA and Director of Finance (DOF) would work in collaboration to produce a plan which provides details of assurance for those areas with no coverage.
3. The HIA explained how and when it is decided an audit is required.

4. The HIA would look to include future proposed audits within future reports which displays a prioritisation of high, medium, and low giving the committee an indication of how soon an audit can be expected.
5. In terms of education, there were lots of areas that could be looked to audit but it had been agreed that the dedicated schools grant deficit would be an area best place to start given the current situation. In relation to the fall in birth rates, the HIA confirmed that this would fall into their scope when the process is started for selecting schools to sample.
6. The HIA explained that as part of their value for money work they had already started work on the waste contract and lessons learned from that contract ready for the public realm contract. The DOF advised the committee that lessons had been learned from the waste contract and that they were using internal audit proactively at the start of this project rather than wait for them to provide a retrospective view on what could have been done better.
7. It was explained that the number of outstanding actions were due to the transition from the Councils performance team moving action tracking across to SWAP and the sheer volume. It was hoped that the committee would see a reduction in outstanding actions within the January report.
8. The HIA was working on a way to keep members updated as to when actions were being given new completion dates and to keep track on the history of changes made to completion dates. It was noted that members could keep track of evidence received from officers and notes attached to each action through the Auditboard system.
9. The process for chasing officers and actions taken in obtaining updates were provided. It was clarified that officers had to have a justified reason for revising an implementation date such as delays in development of systems.
10. If officers were not responding or the HIA thought that actions were not being taken seriously this would be raised initially with the director, then at the Director Leadership Team (DLT) meetings and lastly Rachael and it would be brought to the attention of the committee. It was noted that some actions may not be being addressed as they may not be cost effective to the council or could have been superseded.

Resolved

That the Committee a) reviewed the areas of activity and concern and were satisfied those necessary improvements had been outlined and delivered; and b) Noted the report and considered the assurances provided and the recommendations which the report makes, commenting on its content, as necessary.

Action(s)

2023/24-044 The HIA would adjust the visual presentation on the Internal Audit Work Programme and Coverage dashboard used to identify the coverage.

2023/24-045 The HIA and Director of Finance (DOF) would work in collaboration to produce a plan which provides details of assurance for those areas with no coverage.

2023/24-046 The HIA would look to include future proposed audits within future reports to the committee which displays a prioritisation of high, medium, and low.

2023/24-047 The HIA was working on a way to keep members updated as to when actions were being given new completion dates and to keep track on the history of changes made to completion dates.

22. ENERGY FROM WASTE LOAN UPDATE

The Director of Finance (DOF) introduced the report the purpose of which was to update the committee on the status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions. The principal points included:

- The loan balance as at the end of October was 28.5 million.
- It was explained to the committee that financial covenants look at the position and performance of the borrower and provide assurance over the risk of their ability to meet future debt repayments. It was confirmed no ratios are forecast to be below the agreed compliance.
- The ownership of Mercia Waste Management had changed In June 2024, but after legal advice and an independent review being undertaken by KPMG, it was noted that there were no changes required to the risk assessment.
- Committee can be assured that external audit review as part of their usual audit testing, and that a clean audit report had been received.

In response to committee questions, it was noted:

1. The DOF confirmed the environmental impact section noted within the report was in respect of the environmental impact of the loan repayment.
2. A written response would be obtained and provided on the installation of carbon caption equipment.
3. The DOF explained that the loan repayments that are shown in the report are for the term of the loan and that there would be a large payment for the outstanding balance in full due at the end in line with the legal loan agreement.

RESOLVED:

**That: a) The committee found the risks to the council, as joint lender, are considered reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and
b) reviewed the arrangements for the administration of the loan and were confirmed as satisfactory.**

Action(s)

2023/24-048 A written response would be obtained and provided on the installation of carbon caption equipment.

23. REGULATORY INVESTIGATORY POWERS ACT 2000 (RIPA) UPDATE

The Head of Legal Services (HLS) introduced the report, the purpose of which was to provide an update to the Committee about the operation of Regulatory Investigatory Powers Act 2000 (RIPA) within the Council. The principal points were noted:

- The Policy was last reviewed and updated in June 2021 by the committee. A further review was performed in June 2023, and it was considered by officers that the Policy remained valid and up to date with only minor changes required to reflect changes to the roles within the Council.

- A copy of the amended policy with tracked changes was attached at Appendix 1 for committee approval.
- Training for all officers is now included in their induction in relation to RIPA which also includes the use of social media.
- Approximately 50 officers within the council were trained by an external provider in April and May this year. These were mainly officers within environmental health and trading standards but did also include planning enforcement and senior officers of the council with specific duties.
- The Investigatory Powers Commissioners Office (IPCO) had undertaken an audit and had provided guidance on a couple of points but were satisfied with the way the policy was being used.
- The Head of Regulation and Technical Services (HRTS) advised the committee that RIPA powers had been used twice in the last three years.
- The HRTS explained that the RIPA powers are used sparingly but the policy is vital for example test, purchasing of tobacco sales for underage children and that reviewing the policy periodically to assure the committee that those that this review has been robust and is in line with IPCO.

In response to committee questions, it was noted:

1. 100% of staff that had been instructed to had attended the training.
2. Training was provided by an external provider and was conducted online. The provider encouraged engagement and asking questions during and after the sessions. Each individual received a detailed training pack that they could refer to or refresh their memory as and when they needed to use the powers.

Resolved

That the Committee adopted the revised RIPA Policy in Appendix 1; and noted that the Investigatory Powers Commissioners Office had been satisfied as to the operation of RIPA within the Council.

24. WHISTLEBLOWING UPDATE

The Head of Legal Services (HLS) introduced the report the purpose of which was to update the Committee as to the operation of the Whistleblowing Policy. The principal points included:

- On [23 June 2023](#) the Committee reviewed and approved the existing Whistleblowing Policy.
- It had been considered since that the Policy did not require any further updates.
- 3 Complaints had been received in 2023/24 via the whistleblowing email account, two disclosures were investigated by the relevant manager and management action was completed. The third complaint related to an individual who was not employed by the Council.
- 2 Complaints had been received in 2024/25; both had been rejected as neither related to the Council as one related to an external company and other a different council.
- The lack of complaints were not thought to be a concern and did not mean that employees or the public are not raising complaints. It meant that the public are using the complaints process and employees are using the grievance or other employment processes.

In response to committee questions, it was noted:

1. The HLS explained that the whistleblowing policy is for staff and employees and gives them the opportunity to report a complaint / issue without it posing a risk to their position or to any detriment to themselves.
2. The HLS explained that if a similar report was raised by a member of the public, such reports would be treated as a complaint and would be processed via the appropriate complaint's channels. Members of the public are allowed to make a complaint anonymously, but it was highlighted this may cause problems with effectively dealing with their complaint. The public would need to request anonymity but in practice, these reports come to the council as anonymous emails in any event.
3. It was confirmed that to promote the policy following a recommendation passed by this committee previously, the Chief executive includes this within the staff updates every six months. It was also noted that it is also included as part of any new members of staff induction to the council.

RESOLVED:

That: The committee noted the operation of the employee Whistleblowing Policy since the update to the Policy in June 2023 and the SWAP audit.

25. WORK PROGRAMME

The committee's updated work programme was presented, showing amendments which included the Contract and Financial Procedure Rules Update and the Governance Statement Progress Report on Actions reports having been moved to January.

It was also noted that an additional item would be added to January to include the Quarter 2 Internal Audit Progress Report.

RESOLVED

That subject to the amendment noted, the updated work programme be agreed.

26. DATE OF NEXT MEETING

Tuesday, 28 January 2025, 2pm.

The meeting ended at 3.25 pm

Chairperson

<p>Questioner: 1</p>	<p>Eddy Parkinson, Leintwardine</p>
<p>Question:</p> <p>Does the council have a formal policy with thresholds or any policy as to when the council would refer evidenced criminality by council staff to the police?</p> <p>Response from the Chairperson:</p> <p>Any criminal matters should be referred to the relevant investigating body tasked under statute. Like any other resident of Herefordshire, the Council would report such irrespective of whether it refers to an employee, councillor or resident. This does not require a policy or threshold, but the council has policies that relates to a specific crime and this provides more information. For example, the Anti-fraud, Bribery and Corruption Policy references how the council responses to these types of criminal activity.</p> <p>Supplementary:</p> <p>While the ‘anti-fraud bribery and corruption policy’ is useful can the policy work in relation to misconduct, nonfeasance, malfeasance in public office.</p> <p>For example, if a social worker fakes or exaggerates a referral, perhaps deletes documents from or unlawfully tampers with the confidential data system, perhaps commits a contempt of the family court, Or may lie in court documents, Or if social services staff unlawfully surveil the public.</p> <p>Who decides the threshold? Who is the decision maker?</p> <p>(Note:) The Deputy monitoring officer advised that the final line of the question was removed in line with the council’s constitution that a question must not identify or include named individuals in a public meeting that may contain confidential or exempt information, questions which are personal to the questioner and that questions must be of strategic nature.</p> <p>Response from the Chairperson:</p> <p>As already mentioned in the response to your first question, the council does not need a threshold or specific policy. In general terms and answering your academic question, any matter of wrongdoing by officers would be considered as a complaint and if necessary, then under the Council’s standard employment processes and policies. If there is a suggestion of a criminal wrongdoing, then, as mentioned, the council would report this to the police. This would be a decision of the relevant director who’d draw upon legal and human resources advice as necessary.</p>	

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Questioner: 2

James McGeown, Weobley

Question:

I understand that Councils operate under statutory duties, for example something like, the childrens act 1989 provides the supporting framework. But it is legal precedence, established from case law that determines lawful procedure that a council must follow when implementing individual elements.

For example something like initiating and conducting a Section 47 enquiry under the childrens act 1989.

If a member of the public and service user had honestly held, and well evidenced, concerns that the council was disregarding case law and dismissing concerns when raised.

How should that person “whistleblow” and present their evidence so that it will not be instantly dismissed?

Response from the Chairperson:

The Whistleblowing Policy documents the Council’s commitment to its employees and workers under the Public Interest Disclosure Act 1998. The Policy provides employees and workers a single document that lays down their rights and protections in making disclosures in the public interest and prevents them from suffering an employment detriment. Any concerns raised by a member of the public would not be part of this policy and it is not possible that ‘whistleblowing’ can be made other than by an employee or worker under this policy.

However, if a member of the public is concerned about how the council is performing or whether it is complying with its statutory duties, then this would amount to a complaint and would be considered under either the council’s general (Corporate) complaints policy or the Children’s Representations and Complaints Policy & Procedure. The council’s external website <https://www.herefordshire.gov.uk/council/get-involved/7#formal> provides full details of the process involved and what is available to residents. Concerns about safeguarding of children should be raised to the Multi-agency Safeguarding Hub and details can be found at <https://www.herefordshiresafeguardingboards.org.uk/safeguarding-information/concerned-about-a-child>

In the hypothetical example provided in your question, then the Council's complaints team would receive the concern, and it will be considered in full. This process is managed by the complaints team who will ensure that the appropriate officers within the Council are consulted on the complaint. In the circumstances that a complaint is not upheld, then the member of the public will have the right to refer the matter to the local government ombudsman.

The role of this committee within that framework is to ensure that the process is operating appropriately and performing the functions it was designed to do. It is not possible for this committee to be involved in individual cases as responding to complaints has been delegated to the officers. If you have any specific complaint that you wish to refer to the council then please use the links above which will enable you to do so. If a member of the public does not agree with the council's decision, then they should refer the matter to the ombudsman. Details can be found at <https://www.lgo.org.uk/make-a-complaint>

Supplementary:

Thank you for the most informative answer provided. This signposts a clear course of future action.

In the hypothetical example given, would a concerned citizens group, such as 'Families' Alliance for Change (Herefordshire), FAC' be permitted to present the whistleblowing concern to the council's complaints team.

This is asked with reference: Cllr Ivan Powell's response, full meeting, 11/10/24, "We will not engage with other self-created groups".

Or would a whistleblowing concern to the council's complaints team only be accepted if it was presented by a wronged individual or family?

Response from the Chairperson:

The Council already provides support to those who need it to express their complaint including a referral to a local independent advocacy and advice service – such as Onside Advocacy or Children's Rights and Advocacy Team. These provide free and confidential advice for those who need support.

Complaints must be received from the actual customer of the council – those receiving a particular service. If a third party is complaining on behalf of someone else the council will require consent and authorisation in writing from the customer of the council first.