

MINUTES of the meeting of Audit and Governance Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH on Monday 13 May 2013 at 10.00 am

Present: Councillor J Stone (Chairman)
Councillor JW Millar (Vice Chairman)

Councillors: CNH Attwood, AJ Hempton-Smith, TM James and AJW Powers

In attendance: Councillors J Hardwick, RJ Phillips, PD Price and A Seldon

61. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors EMK Chave, PGH Cutter, Brig. P Jones CBE, and PJ McCaull.

62. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor AJW Powers attended the meeting as substitute member for Councillor EMK Chave.

63. DECLARATIONS OF INTEREST

No declarations of interest were made.

64. MINUTES

The minutes of the meeting held on 15 March 2013 were received.

A Member questioned the wording of minute 54 (Named Substitutes), as it was not considered that the nature of Councillor NP Nenadich's attendance had been made clear at the meeting. The Head of Governance said that he would seek clarification on the matter. (Note: it was subsequently clarified that Councillor Nenadich had attended the meeting as the Conservative Group nomination for the vacant position on the Committee; his appointment was confirmed by Council on 24 May 2013).

Referring to minute 58 (Audit Plan 2012/13), a Committee Member asked when the report requested on the commissioning and commercial strategy would be received by the Committee. In response, the Chief Officer: Finance and Commercial advised that a date had not yet been identified but this would be progressed.

Referring to minute 59 (Changes to the Constitution), a Committee Member commented that the recommendation to Council that 'the term of office of Leaders of the Council should be one year, with an option for Leaders to serve consecutive one-year terms up to, and not exceeding a maximum of four years' would be unusual in local government. It was noted that a number of Leaders had served longer in previous years. The Head of Governance advised that a report on the matter would be submitted to Annual Council on 24 May 2013, where the matter could be debated fully.

RESOLVED: That, subject to the above amendment, the minutes of the meeting held on 15 March 2013 be approved as a correct record and be signed by the Chairman.

65. INTERNAL AUDIT 2012/13, FOOD HYGIENE - FORMAL WRITTEN RESPONSE

Further to minute 56 of 15 March 2013, the Head of Consumer and Business Protection presented his report which updated the Committee on the actions and improvements undertaken by the Environmental Health and Trading Standards Service in response to the KPMG audit report dated 2012 (Ref 104/2012-13), regarding implementation of the Food Standards Agency (FSA) Food Law Code of Practice (England) (April 2012), in relation to undertaking Food Hygiene Inspections.

A summary of progress against the nine key recommendations of the internal audit report was provided. Attention was drawn to paragraph 10.4 of the report, where it was reported that the work plan was risk based and current resourcing issues had led to the decision to accept that the Code of Practice could not be met and, therefore, the service had to target resource accordingly. It was noted that the Regulatory Committee had been informed of this decision and a report outlining the revised Food Hygiene Inspection programme for 2013/14 and the risks associated with not complying with the Code of Practice would be presented to the Regulatory Committee at its next meeting. It was also noted that quarterly reports would be provided to the Regulatory Committee to inform Members of progress against meeting the agreed inspection programme and any deviations from it.

The Head of Consumer and Business Protection anticipated that the majority of the audit recommendations would be addressed by the end of May 2013, albeit the Regulatory Committee would not meet until 25 June 2013, and the Corporate Assurance Grading could be reviewed subsequently.

In response to questions from the Committee, the Head of Consumer and Business Protection advised that:

1. This report had been prepared as a formal written response to the Internal Audit report, not as a result of an FSA audit.
2. It was acknowledged that, whilst inspections had been undertaken by staff, record keeping and monitoring by management had required revision and improvements. It was commented that the service had worked to ISO 9001 standards in previous years but certification had lapsed due to budgetary pressures.
3. Local authorities had statutory obligations under the Code of Practice and the FSA had powers to intervene and take over functions if necessary. It was noted that many local authorities did not achieve full compliance with the code. In view of the resource constraints, with significant further savings required during 2013/14, the service had focussed on higher risk premises, supported by random sampling of lower risk premises.
4. The need to enhance reporting to the Regulatory Committee had been identified by the internal audit report. The Head of Internal Audit said that many services faced resourcing difficulties and it was essential that there was transparency about decision making, with Members properly briefed.

RESOLVED: That

- (a) **The report be noted; and**
- (b) **The actions proposed in order to raise the Corporate Assurance Grading with respect to adherence to the FSA's Food Law Code of Practice (England) (April 2012) be supported and endorsed.**

(Note: During the Annual Fee 2013/14 item, there was a further discussion about matters arising from the Internal Audit 2012/13, Food Hygiene item as summarised below.)

A Committee Member acknowledged that other local authorities had difficulties fulfilling the requirements of the Code of Practice but he was concerned that this Council should not necessarily accept non-compliance as the routine position. The Vice-Chairman noted that the Regulatory Committee was responsible for the use of the Council's regulatory powers and the carrying out of the Council's regulatory duties. He also noted that Internal Audit would review Food Licensing during 2013/14 to ensure that the recommendations had been implemented.

In response to further comments from Committee Members, the Head of Internal Audit said that the report to the Regulatory Committee provided an opportunity to consider performance, debate the issues, and consider different models of working. Councillor A Seldon commented that there might be a role for the General Overview and Scrutiny Committee to consider the scope to combine back office support with other authorities to deliver cost effective regulatory and planning functions.

A Committee Member commented on the importance of food production to the local economy and the need to mitigate potential risks to food quality and safety.

66. ANNUAL FEE 2013/14 FOR HEREFORDSHIRE COUNCIL

The Committee received the Audit Fee letter for 2013/14 from the Council's appointed external auditor, Grant Thornton.

Mr P Jones, of Grant Thornton, reported that the proposed audit fee for 2013/14 was £164,803, this was at the same level as 2012/13. The composite indicative fee for grant certification in 2013/14 was £8,400, this had been £10,600 in 2012/13. It was noted that the letter summarised the planned outputs and indicative timings.

RESOLVED: That the Audit Fee Letter be agreed.

67. INTERNAL AUDIT PROGRESS 2012/13

The Head of Internal Audit updated the Committee on the progress of internal audit work for 2012/13 and internal control issues arising from work recently completed. The principal points included:

1. To date, ten audit reviews had been finalised and seven reviews were being completed by Audit Services, with draft reports issued in three areas.
2. Two areas had received 'Limited Assurance' opinion, these being Legal Services and Data Protection. The progress with the recommendations in these areas would be assessed as part of the Internal Audit Plan for 2013/14, with the findings presented to a future meeting of the Audit and Governance Committee.
3. The review of the Benefits (Council Tax and Housing) function had been given a 'Substantial Assurance' opinion, with no recommendations made.
4. At the request of the Chief Officer: Finance & Commercial, Audit Services had reviewed the capitalisation of highways expenditure and also reviewed the capital planning process, with draft reports issued in these areas.

The Chairman welcomed the snapshot of the status of the audit reviews provided at Appendix 1 to the report.

Referring to the audit review of Data Protection, the Vice-Chairman questioned when the Committee could be provided with assurance about data security. The Head of Internal

Audit said that it would take time to develop processes in some key areas and re-iterated that the function would be subject to further assessment in 2013/14. It was noted that the Committee could request commentary back from the service area regarding the actions being taken to address the audit findings.

A Committee Member commented on the potential impact of welfare reform on the Benefits function. The Head of Internal Audit advised that Benefits was viewed as a fundamental system and controls would be further reviewed during 2013/14.

A Committee Member expressed concern about data security, particularly in view of the increasing alignment of databases. The Chairman suggested that the action plan in respect of Data Protection be received at the next Committee meeting.

In response to a question from a Committee Member about Industrial Lets, the Head of Internal Audit confirmed that funds were being recovered in respect of previously unbilled rental charges.

In response to another question, the Head of Internal Audit said that the audit review of IT Access Controls was to be issued to management shortly but so far he had not been made aware of any significant issues by the auditor, although work on this audit was on-going so he was not yet able to indicate what the final outcome would be.

Referring to point 4. above, the Chief Officer: Finance & Commercial explained that the issue with the capitalisation of highways expenditure related to the split between revenue and capital elements of repairs on the road network.

RESOLVED: That

- (a) The report be noted; and**
- (b) The action plan for the Council's Data Protection function be presented to the next meeting of the Committee.**

68. PUBLIC SECTOR INTERNAL AUDIT STANDARDS AND INTERNAL AUDIT CHARTER

The Committee received a report which outlined the new Public Sector Internal Audit Standards (PSIAS) and sought approval for a new Internal Audit Charter.

The Head of Internal Audit presented the report, the key points included:

- i. The PSIAS replaced the Code of Practice for Internal Audit in Local Government in the United Kingdom, issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- ii. The PSIAS had been adopted as a single set of standards to provide continuity across the public sector in the UK. In addition, CIPFA had published a Local Government Application Note to provide sector-specific interpretations and additional guidance on the PSIAS.
- iii. As a development of previous standards and practice, the revised standards did not require any fundamental review of, or changes to, the policies and procedures governing the Council's internal audit work.
- iv. The PSIAS enshrined a Code of Ethics, covering the four main areas of integrity, objectivity, confidentiality and competency.

- v. The existing model of KPMG managing the internal audit team (employed by Hoople Ltd) would continue; the team had been briefed on the new standards and ethical requirements.
- vi. The standards were structured under 'attribute standards' and 'performance standards', with further 'implementation standards' applicable to assurance or consulting work.
- vii. The principal differences between the CIPFA Code and the new PSIAS included: the requirement for an Internal Audit Charter; some differences in terminology; and the requirement for a quality assurance and improvement programme.
- viii. In terms of the application of terminology within the Council, it was noted that: 'senior management' was interpreted to mean one or more of the Council's Leadership Team, Chief Executive and Chief Officer: Finance & Commercial; and the role of 'the board' would be fulfilled by the Audit and Governance Committee.

The Chairman welcomed the report and, referring to the Internal Audit Charter, noted that the section on the role of Internal Audit provided a helpful summary of key functions.

RESOLVED: That report be noted and the Internal Audit Charter be approved.

69. INTERNAL AUDIT PLAN 2013/14

The Head of Internal Audit presented the draft Annual Internal Audit Plan for 2013/14, the principal points are summarised below:

1. Planning for 2013/14 had been brought forward, with the draft audit plan submitted for consideration two months earlier than the previous year.
2. The audit plan was a risk based plan that took account of the Council's risks, key issues and objectives, including the Medium Term Financial Plan.
3. The proposed programme of audit work had been informed by discussions with senior management across the Council and through assessment by the Internal Audit Service. The programme and resource allocation would need to remain flexible and responsive to accommodate any emerging issues during the year.
4. Discussions had been held with the Chief Officer: Finance & Commercial and the management of Hoople over possible changes to the Internal Audit arrangements to reflect the distinct organisational status of Hoople; this could lead to the removal of certain audits from the Council's audit plan, with the work instead being performed as part of Hoople's own internal audit arrangements.
5. For those functions that had received less than 'adequate assurance' grading during 2012/13, Internal Audit would undertake follow up reviews during 2013/14 to assess the Council's progress in implementing the audit recommendations.

In response to a question from the Chairman, the Head of Internal Audit confirmed that discussions were on-going in respect of paragraph 4. above and that any consequential amendments to the audit plan would be submitted to the Committee for approval. If no change was agreed, however, the Internal Audit Plan as presented to the Committee would be delivered.

A Committee Member commented that the public and the press had concerns about transparency, particularly in relation to organisations like Hoople, and changes to audit arrangements would be perceived negatively.

Another Committee Member noted that it would be unusual for a local authority to undertake audits in relation to day-to-day activities of an entirely separate company.

Furthermore, it was felt that the Council should not spend part of the audit fee on monitoring and micro-managing Hoople's operational environment.

A Committee Member questioned whether Hoople, as a sole provider which had not yet been tested in the market, should necessarily be considered in the same way as a stand-alone entity.

The Head of Internal Audit said that the audit model should reflect the situation on the ground in terms of the client side (Council) and contractor side (Hoople), irrespective of any shareholding position. In response to concerns expressed by some Committee Members, the Head of Internal Audit said that any revised audit arrangements should enhance transparency, as Hoople would need to provide explicit assurance to the Council about the operation of controls for the relevant areas.

Councillor PD Price, who was a Council appointed non-executive director on the Board of Directors of Hoople, commented on:

- i. the background to the formation of Hoople, including the intention to retain as many jobs in Herefordshire as possible and the potential for additional partners in the future;
- ii. the financial challenges facing the public sector and the need to scale services accordingly;
- iii. the Service Level Agreements between the Council and Hoople, he emphasised that it was for Hoople to determine its own working practices;
- iv. the Board of Directors included independent non-executive directors and it had its own Audit Committee;
- v. the Managing Director was prepared to provide the Committee with the assurances it required;
- vi. the need for a mature and transparent relationship, rather than debates through the media.

A Committee Member said that nobody wanted to see duplication in the process of auditing but the authority should not underestimate public anxieties about Hoople and other companies and it had to ensure that public money was spent in the most transparent way.

The Chief Officer: Finance & Commercial said that it was essential that the auditing model was appropriate and different ways of working would be tested.

RESOLVED: That the Annual Internal Audit Plan 2013/14 be approved.

70. CONSULTATION ON THE REVIEW OF THE COMPLAINTS AND FEEDBACK POLICY AND PROCEDURE

The Head of Communications and Engagement reported that the Council had a 'Policy and Procedure for Making Experiences Count' and Cabinet would review the document at its meeting on 13 June 2013; the existing policy was attached as Appendix A to the report. In accordance with the Constitution (paragraph 5.10.5.2 d refers), the Audit and Governance Committee was being consulted on the review and observations were sought from Members.

The Head of Communications and Engagement made the following points:

1. The existing policy had been shared with NHS Herefordshire and consequently required some updating.

2. A small team, the Customer Insight Unit, managed the process and, supported by a specialist software module, was able to monitor and report on aspects of how complaints were handled.
3. The team provided a single point of contact with complainants and co-ordinated responses from across the authority.
4. There was a single-stage procedure for most areas of the Council; for children's services, a three-stage complaints procedure was operated, as proscribed in law.
5. It was clarified that the statement in the report that '(for 2012/13), 60% of complaints were responded to within the timescales set out in the policy...' referred to final response letters and that 100% had been acknowledged in accordance with the policy.
6. With reference to Appendix B to the report (Annual CIU Report – 2012/13), it was reported that the authority had good statistical data but, at this stage, could not necessarily demonstrate how the procedure improved services or how satisfied complainants were with the process.

Committee Members made comments and asked questions, in response the Head of Communications and Engagement advised:

- i. The customer relationship management software had been introduced recently, therefore 2012/13 was the first full year of data and this would provide the baseline going forward.
- ii. By volume, most complaints were about public realm functions, such as highways maintenance, but these could be relatively straightforward. Whereas fewer complaints were received about adult social care but these were often complex and difficult to resolve.
- iii. The importance of proper category assignment was noted. It was reported that the data for Hoople did not all relate to Hoople itself, it also included services delivered by Hoople on behalf of the Council.

A Committee Member noted the potential value of the statistical data for complaints and compliments in each service area and suggested that this could be compiled into a single, summary sheet for wider circulation.

Another Committee Member questioned how the service obtained feedback from complainants. The Head of Communications and Engagement said that forms had been sent out after the resolution of a complaint but very few were returned, therefore this practice was suspended during the previous year. However, it was acknowledged that the reasons for low levels of response should be reviewed.

In response to further questions, the Head of Communications and Engagement clarified that the existing policy had been drafted to cover NHS Herefordshire but, since April 2013, the main interaction with health was with Wye Valley NHS Trust in respect of adult social care; there was no statutory requirement for the Customer Insight Unit but it seemed logical and convenient that a single team, with the necessary skills and expertise, co-ordinate responses on behalf of the authority; and there had not been any adverse findings by the Local Government Ombudsman since the policy had been introduced.

RESOLVED: That the observations of the Audit and Governance Committee be forwarded to Cabinet to inform its review of the policy and procedure.

71. COMMERCIAL CONFIDENTIALITY

The Head of Governance introduced a report which provided the Committee with an overview of the concept of commercial confidentiality and its impact on relationships between Herefordshire Council and external agencies; this sought to address issues raised at the General Overview and Scrutiny Committee on 14 January 2013 (minute 27, 'Hereford Futures Governance Update', refers).

A Committee Member emphasised the need for clarity and integrity when dealing with external partners or agencies. Referring to the Risk Management section of the 'Freedom of Information and Arm's Length Companies' report submitted to the General Overview and Scrutiny Committee on 4 March 2013, it was noted that 'There is a presumption of disclosure under the Act, so any 'borderline' decisions should come down in favour of making information public.' It was felt that agreements and contracts needed to reflect the presumption in favour of transparency from the outset. Support was expressed for the comments of Margaret Hodge MP, Chair of the Public Accounts Committee in the House of Commons, that "Too much is hidden behind commercial confidentiality and I think that has now become an excuse for hiding data and information that we need to assure Parliament and the public that there is value for money" (BBC Radio 4, File on 4, 'Public, Private and Profitable', 23 October 2012). The Committee Member said that it was likely that more key public services would be delivered by private companies in the future and it was vital that tax payers had the opportunity to follow public money. He added that Councillors should not be satisfied with purely technical answers from such bodies.

The Head of Governance explained that, within the Constitution (Part 2 - Articles, 2.13.3.1, Confidential Information), Councillors had '... a right to any information which they need in order to fulfil their functions as Councillors but may need to demonstrate that they have a need to know that information ...'. In terms of confidential information, key factors to be considered included who held and who owned the information, and whether the information was likely to prejudice commercial interests if disclosed. Nevertheless, confidential information could be disclosed with the co-operation and consent of the party to whom the obligation of confidentiality was owed.

The Scrutiny Officer said that public / private relationships were an emerging issue and, until properly tested, authorities needed to consider the risks of unilateral disclosure bearing in mind the potential level of damages if found to be in breach of confidence. The Monitoring Officer added that there was a strong public interest in openness but this did not override all other considerations.

A Committee Member commented that unnecessary disclosure of information could undermine negotiations with other parties.

In response to a question, the Head of Governance advised that the Freedom of Information Act only applied to companies that were wholly owned by a single public authority currently but it was anticipated that the Act would be extended to cover other public ownership arrangements in the near future. Noting that it was difficult for members of the public to obtain information at present, a Committee Member said that greater transparency would enhance public perceptions of such bodies.

A Committee Member felt that, to ensure proper scrutiny and accountability of organisations that were spending public money and delivering elements of Council policy and projects, openness should be the normal position; he added that genuinely sensitive information could be redacted as appropriate.

The Chairman thanked attendees for their interesting contributions.

RESOLVED: That the report be noted.

72. DATE OF NEXT MEETING

Friday 5 July 2013 at 10.00am.

The meeting ended at 12.20 pm

CHAIRMAN

