

MINUTES of the meeting of Audit and Governance Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH on Friday 5 July 2013 at 10.00 am

Present: Councillor J Stone (Chairman)

Councillors: EMK Chave, PGH Cutter, TM James, Brig P Jones CBE and PJ McCaull

In attendance: Councillor A Seldon

Officers: B Baugh (Democratic Services Officer), J Lewis (Assistant Director People, Policy and Partnerships), D Powell (Chief Officer: Finance and Commercial), A Sawyer (Information Governance Principal Officer), and C Trachonitis (Equality, Human Rights and Partnership Manager)

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CNH Attwood and P Rone.

2. NAMED SUBSTITUTES (IF ANY)

None.

3. DECLARATIONS OF INTEREST

During consideration of agenda item 9, Councillor EMK Chave declared a non-pecuniary interest due to David Williams MBE QFSM being Chairman of Herefordshire Advanced Motorists and the Councillor was a member of that organisation.

4. MINUTES

The minutes of the meeting held on 13 May 2013 were received. The following matters arising were noted:

Minute 65 - Internal Audit 2012/13, Food Hygiene

Referring to a front-page article in the Hereford Times (27 June 2013 refers), a Committee Member commented that concerns remained about compliance with statutory duties in this area. The Chairman noted that the Committee had discussed the issues at its previous two meetings, with concerns being raised about Food Hygiene Inspections and resourcing issues. He added that the Regulatory Committee had recently considered related matters (25 June 2013 refers).

Minute 69 - Internal Audit Plan 2013/14

A Committee Member, referring to the audit arrangements for the Council and for Hoople, commented on public concerns about private companies doing Council work with public money.

RESOLVED: That the minutes of the meeting held on 13 May 2013 be approved and signed as a correct record.

5. ANNUAL ASSURANCE REPORT 2012/13

The Head of Internal Audit reported that the timetable for the Annual Internal Audit Report had been brought forward, with this report submitted two months earlier than in the previous year. The report provided the overall internal audit opinion, with commentary on internal audit activity and matters arising from the completion of the 2012/13 Annual Internal Audit Plan. The principal points are summarised below.

Section 2 - Opinion

1. The internal audit opinion was that 'the Council has adequate and effective risk management, control and governance processes to manage the achievement of its objectives, except for those areas highlighted as limited in Appendix 1. In these areas agreed improvements are in place.' The Head of Internal Audit advised that this was the same outcome as the previous year but there was a positive direction of travel in that there had been four areas highlighted as limited in 2012/13, compared to seven in 2011/12; he added that the areas highlighted in 2011/12 had also been more fundamental to the systems of control and governance.

Section 3 - Summary of Our Work and Significant Control Issues

2. It was reported that many reviews graded the Council's arrangements as 'adequate assurance', with 'substantial assurance' for Debtors, Treasury Management, Benefits (Council Tax and Housing), and NNDR and Council Tax Collection. The four areas with significant control issues and 'limited assurance' were Data Protection, Legal Services, Income Collection - Industrial Lets, and Food Licensing. It was noted that the issues in these areas had been reported to the Committee during the year.
3. Attention was drawn to the statement that 'the controls within the Adult Social Care function require strengthening to ensure that the system can meet its objectives in terms of the service it delivers and the financial resources being managed.' It was reported that, although no explicit work had been undertaken as part of the Annual Internal Audit Plan, this comment was informed by assistance and guidance work undertaken by Internal Audit and from other sources.

Section 4 - Detailed Findings

4. With a further report recently finalised for Creditors, it was reported that 22 audit reviews had been completed or were in draft, with seven reviews in progress.
5. Referring to the graph showing the number and priority of audit recommendations (agenda page 31), the Head of Internal Audit reported that seven priority one (high priority) recommendations had been raised in 2012/13, with 29 priority two and 17 priority three recommendations. In comparison, there had been 27 priority one recommendations in 2011/12.
6. Referring to the results of follow up work on recommendations made in 2012/13, the Head of Internal Audit said that Internal Audit was satisfied that management had taken action where it was needed.

Section 5 - The Internal Audit Function

7. This section set out the performance of the Internal Audit function and feedback from management. Attention was drawn to the performance measure 'Management responses received within 10 working days of draft issued', with only 38% achieved. The Head of Internal Audit reported this was causing a degree of

frustration and had been identified to senior management at the Council; he added that prompt responses were not only important to ensure that outcomes could be presented to the Committee but also to provide reassurance that issues were being addressed in a timely manner.

8. The Chairman did not consider the low level of management response to be acceptable and noted that the Committee would wish to know which managers had not responded within the required timescales. He emphasised that managers had to engage fully with the audit process and the matter would need to be followed up after the meeting. The Committee endorsed the Chairman's comments. It was recognised that staffing and workload were factors but management had to give sufficient priority to the draft reports.
9. In response to a question from a Committee Member, the Head of Internal Audit confirmed that the audits were phased throughout the year and explained the process for the delivery of draft reports.
10. The Chief Officer: Finance and Commercial noted that, in addition to workload, some of the delay might be partly due to areas falling between Hoople and Council functions; this highlighted the need for further consideration to be given to the items included in the respective audit plans. He added that the situation might be an early indicator that some elements of the organisation were not taking some of its key roles seriously and welcomed the reinforcement of the critical messages by the Committee.
11. The Chairman of the General Overview and Scrutiny Committee said that there were parallels with the difficulties being experienced by the overview and scrutiny function in getting information from certain departments in the Council. He recognised that there were capacity issues for officers, as they had to deal with increasing strains with diminishing resources.
12. A Committee Member suggested that, unless there was a dramatic improvement in performance, the managers responsible should be named. The Chairman added that the Committee needed to understand why they had not responded.
13. The Head of Internal Audit commented that there were no concerns in terms of access to information, officers or any areas of the organisation.
14. Further to the report considered at the last meeting on Public Sector Internal Audit Standards (PSIAS) and Internal Audit Charter (minute 68 refers), the Committee was advised that a self-assessment had been undertaken of the Internal Audit function and the work performed in 2012/13 against the PSIAS. As the PSIAS built upon existing standards, there were no fundamental issues but it was recognised that a few areas would need further work. It was reported that discussions were being held with Hoople about job descriptions for the Internal Audit Team to ensure they were refreshed and suitable for the future. It was also reported that new requirements included a Quality Assurance and Improvement Programme and an External Assessment of the internal audit function against the PSIAS once every five years; clarification would be needed about this assessment in the context of the Council's outsourced arrangement.

Appendix 1 - Work Completed

15. This appendix set out the grading, recommendations and status of reviews undertaken during the year. Further to paragraph 4. above, it was noted that a report had been finalised for Creditors since agenda publication, with an 'adequate assurance' grading and four priority two recommendations.

The Chairman thanked the Head of Internal Audit for his clear and comprehensive report. Questions and comments were invited from the Committee.

A Committee Member identified a number of issues, including:

- i. Referring to paragraph 10 of the covering report, it was noted that the challenges affecting Adult Social Care were broader than 'local issues'.
- ii. The areas graded as 'limited assurance' involved potential major risks, both financial and reputational.
- iii. Matters covered in the report raised questions about levels of staffing and expertise in key areas within the organisation.
- iv. Referring to Section 4, it was questioned what happened to work that was 'superseded' by other activities.
- v. The summary of audit opinions suggested that systems were 'good enough' but there was a concern that particular areas of limited assurance could skew this perception.
- vi. It was questioned whether management feedback could be required ahead of any audit opinion being issued.
- vii. Concerns were expressed about matters that were actually for the management of Hoople to deal with but could affect the Council's own compliance requirements.

In response, the Head of Internal Audit advised that: (iv.) where it was concluded that work should be deferred or cancelled, if matters had moved on or other activities had superseded it, Internal Audit would return to the issues as part of the next planning process and this would be reported to the Committee accordingly; (v.) although the authority should continue to strive for zero limited assurance gradings, the direction of travel in terms of audit opinions was positive; (vi.) the Internal Audit Service could not continue to deliver a high quality service without feedback and the Committee's support was welcomed; and (vii.) the arrangements with Hoople worked well and were being improved, the need to update job descriptions was a legacy issue identified through the self-assessment.

In response to questions from Committee Members, the Head of Internal Audit advised that:

- a. It would be expected that changes that may be manifesting in key areas would be picked up in managerial metrics; Internal Audit examined the application and rigour of such metrics when undertaking audit reviews. In terms of welfare reform, no work had been undertaken post implementation but Internal Audit had examined the plans that were put in place to prepare for the changes.
- b. It was not the role of Internal Audit to comment on legal advice that had been provided, the audit review of Legal Services was around governance, management performance and structure. Nevertheless, it was acknowledged that weaknesses in processes and controls could have consequential impacts on service quality.
- c. Audit activity was adapted to support and engage with on-going corporate and managerial projects, such as Rising to the Challenge and Business Continuity, at particular points in time.

The Chief Officer: Finance and Commercial reported that, at Cabinet on 18 April 2013 (minute 90 refers), the 'Rising to the Challenge' programme had been closed, it had been superseded by 'Root and Branch Reviews'. He added that the delivery of budget savings was the critical issue for the Committee.

- d. Management had responded to the recommendations of the audit review of Income Collection - Industrial Lets and that outstanding rental charges had now been recovered. An explanation of the methodology for audit sampling was also provided.
- e. There was no correlation between the low level of management responses to draft reports and adverse audit opinions, some of the awaited responses were to positive reviews. It was reported that, even where reports had not been finalised, dialogue would continue with management to ensure that action was being taken to address key findings.
- f. Reference to 'Hot Topics', in Appendix 1, related to issues and risks that had come to the attention of audit professionals from various sources, including the client base and professional bodies; an example was provided of an increasing type of fraud that finance teams needed to be aware of.

The Chairman noted that the authority had made some progress in terms of reducing the areas of limited assurance and action was being taken to strengthen those areas, nevertheless further work was needed to improve management response times to draft reports.

RESOLVED: That

- (a) **The report be noted; and**
- (b) **Managers be reminded of the need to engage fully with the audit process and to respond within the required timescales.**

6. INTERNAL AUDIT PROGRESS REPORT 2012/13

The Head of Internal Audit introduced the report which summarised progress against the Audit Plan 2012/13. It was noted that the key considerations had been discussed as part of the Annual Assurance Report 2012/13 report (minute 5 above).

RESOLVED: That the report be noted.

7. INTERNAL AUDIT 2012-13 DATA PROTECTION 1998 - FORMAL WRITTEN RESPONSE

Further to minute 67 of the last meeting, the Committee received a report that provided a formal written response to the Internal Audit review of Data Protection dated 26 April 2013. The report also highlighted the findings of the Information Commissioner's Office (ICO) consensual Data Protection audit of 30 April - 2 May 2013.

The Equality, Human Rights and Partnership Manager, having recently taken on the management of this area, presented the report of the Knowledge and Information Services Manager. The Committee was advised that the Information Governance Team had undertaken substantial work following the Internal Audit review, both in advance of the ICO audit and subsequently. A number of recommendations overlapped and an action plan and programme of work had been developed. Attention was drawn to the following areas:

1. Personal data audit: An overview was provided of the actions undertaken and in progress, including the compilation of an Information Asset Register.
2. Security breach incidents: It was noted that 80 Data Protection incidents had been logged since June 2012, with a further five reported since agenda publication. The ICO had commented that the level of reporting was encouraging, as this reflected the high visibility of the new Information Governance Team and the fact that appropriate systems were in place to capture incidents.

It was reported that generic mandatory training was being developed, with further bespoke training for specific teams. In particular, high priority would be given to training for Section 75 staff prior to their return into the Council from Wye Valley NHS Trust.

3. Downloading sensitive and confidential data: A key piece of work was being undertaken to address both device and software security issues.
4. Communication of Data Protection Act issues: The Information Governance Team continued to develop relationships with management teams and representatives to develop broader understanding and points of contact for support.

In response to a question from a Committee Member, the Assistant Director People, Policy and Partnerships (hereafter 'Assistant Director' in these minutes) commented that two issues arose from staff movements and turnover. Firstly, there was a need to ensure that individuals only had access to those systems they needed to use as part of their current roles, this would be addressed through strengthened HR processes. Secondly, there was a need to ensure that mandatory training was completed within a short time of commencing a new role, this would be delivered and recorded through online modules. It was acknowledged that further work was required on the eLearning platform.

A Committee Member commented that Councillors had to register as data controllers with the ICO for an annual fee and questioned whether this should be borne by Councillors themselves or by the authority.

A Committee Member said that managers had to take responsibility for their areas and staff needed to be brought to account if they failed to fulfil their duties. The Assistant Director said that the lack of mandatory training in this area was a significant issue for the authority but this was being addressed and there would be much greater clarity about expectations going forward. She added that organisational awareness and learning was essential; an example was given of a member of staff who had been responsible for a breach through human error but was now one of the best champions for information governance within the Council. Nevertheless, some members of staff had been disciplined about serious breaches.

In response to a question from the Chairman, the Information Governance Principal Officer recognised that over 80 Data Protection incidents was a high number but it did reflect that the culture was changing and staff felt able to report incidents. It was recognised that breaches involving private and personal information could cause significant distress and the authority was transparent about incidents that had occurred and did all it could to support affected individuals.

A Committee Member commented on a number of issues, including: reports should be written for as wide an audience as possible; a removal media policy would not be as effective as physically blocking ports on devices; a question was asked about Human Rights in terms of the protection of personal data; and a question was asked about the timescale for the 'Managing Information Safely' delivery plan.

In response, the Information Governance Principal Officer advised that: software was available to prevent unauthorised use of removal media and this was being explored by Hoople ICT; it was confirmed that the Human Rights Act 1998 included a 'right to privacy', although this was a qualified right in that the state could intervene in certain circumstances, such as to prevent disorder or crime; the ICO had identified a timescale of March 2014, recognising that there was a lot of work and behavioural change required to ensure that improvements were embedded.

In response to question from a Committee Member, the Assistant Director advised that the Council was expected to have an Information Asset Register; this should provide an understanding of the critical information held, how it was being held and for how long it was being held for. It was acknowledged that the use of the term 'asset' was a misnomer as there was no intrinsic value; the register was essentially a list of types of information and associated levels of security.

A Committee Member commented that information had to be secure and handled appropriately, nevertheless there were potential risks for safeguarding if professionals could not get access to information and share it with other agencies. The Assistant Director advised that Cabinet was to receive a report shortly about an opportunity to engage with the Public Sector Network (PSN) which enabled public sector organisations to use networking services across geographical boundaries, subject to stringent security standards; subject to approval, a West Midlands PSN would also provide opportunities for collective procurement.

The Chairman of the General Overview and Scrutiny Committee, referring to information held by retailers, commented that the public sector was lagging behind the private sector in terms of the collection, distribution and use of information. He added that the key objective should be to get the right information, to the right people, at the right time.

The Chief Officer: Finance and Commercial noted: the comprehensive report and input from officers; the considerable work that had been undertaken by the Information Governance Team to address the issues; and, previewing the next agenda item, the importance of this area to overall governance assurance. The Assistant Director paid tribute to the work of the team, particularly to the significant contributions made by Anthony Sawyer and Helen Worth.

RESOLVED: That

- (a) The report be noted;**
- (b) The actions proposed in order to address the recommendations of the Internal Audit review with respect to the Data Protection Act 1998, be supported and endorsed; and**
- (c) The actions proposed in order to address the areas of improvement identified in the second draft of the ICO consensual audit with respect to the Data Protection Act 1998, be supported and endorsed.**

8. DRAFT ANNUAL GOVERNANCE STATEMENT 2012/13

The Chief Officer: Finance and Commercial presented the report of the Head of Governance which sought approval for the draft Annual Governance Statement for 2012/13

The draft statement was appended to the report and Members' attention was drawn to the following points:

- i. Section 3: This set out the Council's principles of good governance and the related activities that had been carried out during 2012/13.
- ii. Paragraphs 3.16 and 3.17: These paragraphs should be omitted, as they referred to standards complaints during 2011/12.
- iii. Paragraph 4.16: For the last two years, the Council had decided not to follow the financial management arrangements prescribed by CIPFA in relation to the Section 151 role. However, from April 2013, the reporting lines had been amended and there would be compliance going forward.

The Chairman advised that the Annual Governance Statement needed to be considered and approved by the Committee prior to its inclusion within the Council's Statement of Accounts.

A Committee Member made a number of comments, including:

- a. Paragraph 1.1: In view of the statement that 'Herefordshire Council is responsible for ensuring that... public money is safeguarded, properly accounted for and used economically, efficiently and effectively', the authority should be aware of the significant public concerns about Hoople and other companies undertaking work on behalf of the Council.
- b. Paragraph 3.2: Referring to Principle 4, 'Take sound decisions on the basis of good information', the Member said that a request for information had not been responded to after a number of months and, in view of the comments of the Chairman of General Overview and Scrutiny (see minute #, paragraph 11 above), felt that more work was needed on this topic.
- c. Paragraph 3.4: It was noted that the authority had 'identified substantial savings during the year' but it was questioned whether these were actually being made.
- d. Paragraph 3.10: It was commented that consideration could be given to rolling out the '...formal staff performance review requirement..' to Councillors.
- e. Paragraph 3.15: It was questioned whether standards complaints about 'bullying, failure to show respect' were an increasing trend.
- f. Paragraph 3.38: Referring to the statement that 'Further information about services can be found on the Council's website...' it was commented that, as identified in the Understanding Herefordshire 2013 report, many people did not want to be online, regardless of cost.
- g. Further clarification was sought about the reporting lines for the Section 151 role.
- h. Paragraph 4.40: There appeared to be a discrepancy between the figures given in the statement and in the Annual Internal Audit Report 2012/13 for the number of Internal Audit reports and recommendations.
- i. Signatories: It was questioned why the document had been signed by the Deputy Leader rather than by the Leader of the Council.

In response to the questions, the Chief Officer: Finance and Commercial advised that: (g.) he previously reported to the Deputy Chief Executive but, with the deletion of that post, the Section 151 Officer would now report directly to the Chief Executive and would have a permanent position on the Management Board; (h) the figures would be checked;

and (i) the statement had to be signed before the end of June 2013 for the Committee to approve and the Leader of the Council had been on leave at the time.

In response to a question from a Committee Member, the Democratic Services Officer confirmed that complaints against parish and town councillors were considered under the new standards process but only the relevant parish or town council could impose sanctions. The Chairman noted that the new system was lighter than the previous standards regime and the Herefordshire Association of Local Councils helped to identify potential parish/town council representatives to sit on the Standards Panel.

RESOLVED: That the draft Annual Governance Statement 2012/13 be approved for inclusion in the Statement of Accounts for 2012/13.

9. APPOINTMENT OF INDEPENDENT PERSONS TO THE COUNCIL'S STANDARDS PANEL

This report, by the Head of Governance, notified the Committee that approval would be sought at the next Council meeting for the appointment of John Sharman and David Williams MBE QFSM as Independent Persons to the Standards Panel.

It was reported that, as a consequence of the Localism Act, the tenure of Jake Bharier and David Stevens MBE as Independent Persons had ended on 30 June 2013; Rob Cook was the only remaining serving Independent Person currently. The Chairman advised that Mr. Bharier and Mr. Stevens had been invited to tea with the Chairman of the Council in recognition of their significant contributions to standards in the county.

The Chairman said that it was encouraging that the recruitment process had attracted a strong field of high calibre candidates to the positions. The Committee noted that both Mr. Sharman and Mr. Williams had significant experience of local government and other public sector bodies.

RESOLVED: That it be noted that approval was to be sought at Council, on 19 July 2013, to appoint John Sharman and David Williams MBE QFSM as Independent Persons to the Standards Panel.

The meeting ended at 11.55 am

CHAIRMAN