

**PUBLIC QUESTIONS AND ANSWERS TO
AUDIT AND GOVERNANCE COMMITTEE
30 JULY 2019**

Question 1

Dr N Geeson, Hereford

In view of the SWAP internal auditors report with concerns on the NMiTE draw down funding, what risk is there that local taxpayers may have to refund money paid by the Department for Education to NMiTE, for which the Council acts as guarantor?

Response

There is no risk that local taxpayers will have to refund any money to the Department of Education because Herefordshire Council has not been asked to act as guarantor by the Department of Education.

Herefordshire Council acts as the accountable body in respect of the Department of Education's grants to NMiTE. Being the accountable body includes reporting to the Department of Education of any concerns that they should be aware of. SWAP have found no concerns in respect of the defrayment of the majority of the Department of Education's grant to NMiTE. There are a number of issues that it has been deemed appropriate to bring to the attention of the Department of Education that are detailed in the report to the Department of Education.

Question 2

Mr R Stow, Rowlestone

The Government's Committee on Standards in Public Life (CSPL) carried out a comprehensive year-long review of local government ethical standards in 2018, evaluating the new framework introduced by the Localism Act 2011.

I was involved in this review in my role as the "Independent Person" for Herefordshire Council, participating in the CSPL roundtable seminar of monitoring officers, lawyers and independent persons in Birmingham in April 2018, and submitting a written response to the public consultation in May 2018.

The resulting CSPL Report was published on 30th January 2019, but this item was not included on the Audit & Governance agenda for 19th March and it is not on the agenda for 30th July.

When will the Audit & Governance Committee be briefed on the CSPL Report and the Council's compliance with its recommendations?

Response

As stated in the annual governance statement report, the committee will be briefed on the government's committee on standards in public life report and the degree to which the council's processes meet recommended best practice as part of the annual code of conduct

report. This report is scheduled to be discussed at the meeting to be held on 24 September 2019.

Question 3

Mr Jacqui Tonge, Hereford

The previous administration gave written assurances to the public that over £3million received from the Marches LEP to fund work on the SWTP was a grant and not a loan. The South Herefordshire MP Jesse Norman has recently claimed that over £10million may have to be repaid by Herefordshire Council in respect of road projects related to the 'bypass'. Would the committee confirm that the previous accounts for Herefordshire Council have been correct and that the money from the Marches LEP received in respect of the SWTP is not a loan no repayment will be required under any circumstances?

Response

Payments have been made to the council from the Marches LEP in accordance with the terms of the grant agreement and we do not consider that the clawback clauses would apply.

Question 4

Mrs J Richards, Hereford

As Hoople Ltd is an arms-length limited company, why has the pension liability been brought back into the liabilities of Herefordshire Council and the local taxpayer?

Response

Herefordshire Council is a majority shareholder in Hoople Ltd, at the creation of Hoople Ltd the council guaranteed the local government pension obligations for council staff that transferred to Hoople Ltd. Following legal advice and conversations with the council's auditors it was agreed that to improve the clarity of this arrangement the pension liability has been included in the total pension liabilities for the Council this is explained in note 21 of the annual accounts.

Question 6

Mrs E Morawiecka, Breinton

At the last full council meeting a lot was said about declarations of interest to ensure local government is open & transparent. Do the auditors & committee believe it is good governance for private contractors to act as professional advisors speaking at length at council meetings, asking for assurance of new contracts for their cash flow for the next 12 months, recommending the council undertakes further work, etc. without these contractors ever having to declare an interest?

Response

The Council carried out a full open procurement process to appoint a contractor to deliver the council's public realm requirements. The contractor provides a range of services to the council including a range of professional advice. The contractor is paid for these services in accordance with the public realm contract and there is no interest to declare for delivering professional advice.

Supplementary Question

Thank you for the answer. My question was mainly referring to major capital projects which are not part of the Public Realm Contract to which the answer refers. As it is paragraph 210.1 of the public realm contract with Balfour Beatty Living Places states it is intended that the delivery of major schemes will be dealt with separately from the provision of services and the annual plan will not be required to deal with the delivery of major schemes. In accordance with the public realm contract of 2013, please confirm that the millions of pounds worth of work on the South Wye Transport Package and Hereford Transport Package done to date by Balfour Beatty including speaking on major projects at council meetings was the result of at least one separate competitive tender and as WSP are not a signatory of the public realm contract was there a competitive tender process used to appoint them to undertake work on capital projects and speak at council meetings or was this work done pro bono?

Response

A written response will be provided within 10 working days

Written response

The work done to progress the South Wye Transport Package and the Hereford Transport Package to date have not been procured as a result of separate project specific tenders. The services of those design professionals employed by WSP who are speaking on major projects at council meetings, have been procured through the Public Realm Services Contract, which is a contract that has been competitively tendered under EU procurement rules.

The question refers to Clause 210.1 of the Public Realm Services Contract, which states 'It is intended that the delivery of Major Schemes will be dealt with separately from the provision of the Services and the Annual Plan will not be required to deal with the delivery of Major Schemes unless the Provider is providing Services in relation to them.'

'Major Schemes' is a defined term under this contract and this defined term should not be confused with the term 'major projects'. A major project may lead to a Major Scheme but the progress of many major projects, such as the above mentioned transport packages, may involve, for example, design services. Such services have been procured as part of the Public Realm Services Contract and as they ordinarily fall within the scope of that contract, they are not in themselves Major Schemes.

It is the case that WSP are not a signatory to the Public Realm Services Contract, that contract being between Herefordshire Council and Balfour Beatty Living Places Ltd. The contract does allow for subcontracting and where Balfour Beatty Living Places subcontracts any part of the services, they are responsible for provision as if they had not subcontracted. The provision of such sub-contract services to Balfour Beatty Living Places is the subject of a competitive procurement process run by them to establish their subcontract relationship with WSP.

The Public Realm Services Contract is available to view at https://www.herefordshire.gov.uk/download/downloads/id/1309/public_realm_services_contract_2013.pdf