

Minutes of the meeting of the Audit and governance committee held in The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Tuesday 25 January 2022 at 10.15 am

Committee members present in person and voting: **Councillors: Jenny Bartlett, Christy Bolderson (Vice-chairperson), Dave Boulter, Sebastian Bowen, Peter Jinman, Nigel Shaw (Chairperson) and Yolande Watson**

Others in attendance: B Baugh (Democratic services officer), J Bharier (Independent person), S Cann (Democratic services officer), K Charlton (Interim head of legal services), J Gooding (Assistant director, South West Audit Partnership), Councillor Liz Harvey (Cabinet member - finance, corporate services and planning), A Lovegrove (Director of resources and assurance), C Marshall (Project manager), J Nelson (Counter fraud specialist), J Preece (Democratic services technical support officer), J Rushgrove (Head of corporate finance), G Turner-Radcliffe (Audit manager, Grant Thornton) and C Ward (Director of governance and law)

61. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor Bob Matthews.

62. NAMED SUBSTITUTES

In accordance with paragraph 4.7.171 of the council's constitution, Councillor Sebastian Bowen attended the meeting as a substitute member for Councillor Matthews.

63. DECLARATIONS OF INTEREST

Councillor Yolande Watson declared an 'other' interest in relation to the agenda item 'Annual report on code of conduct' (agenda item 11, minute 71 below) by virtue of being the ward member for Kerne Bridge which included Walford parish.

64. MINUTES

The minutes of the last meeting were received.

An updated action log was circulated in supplement 2 to the agenda. It was noted that the director of governance and law was to share the action log with the chief executive's management board in order to expedite the actions that were overdue.

Committee members commented on the need for due dates to be realistic, for action owners to share any difficulties in delivering the actions, and for consistent entries in the 'reported complete' column.

The vice-chairperson drew attention to action 97, in relation to the role of the committee in terms of performance and the budget, and the progress update - 'To be considered as part of rethinking governance work stream'. With the activity of the working group drawing to a

conclusion, it was questioned how this action could be addressed in the most effective way. The chairperson made reference to the observation in the Grant Thornton document '[Lessons from recent Public Interest Reports 2021](#)' that 'Sometimes we find that audit committee structures are hindered by having too wide a brief'. The director of governance and law advised that further work was needed on the functions of the committee and this matter could be considered by the working group.

RESOLVED:

That the minutes of the meeting held on 26 November 2021 be confirmed as a correct record and be signed by the chairman.

65. QUESTIONS FROM MEMBERS OF THE PUBLIC

A question received from a member of the public and the response provided was circulated in supplement 2 to the agenda and is attached in the appendix to the minutes; no supplementary question was received.

66. QUESTIONS FROM COUNCILLORS

No questions had been received from councillors.

67. EXTERNAL AUDIT PROGRESS UPDATE

The committee received a progress update of the work being undertaken by the external auditor, Grant Thornton UK LLP, and a general sector update; a slight update to the 'Audit Progress Report and Sector Update' document had been issued in supplement 1 to the agenda which provided updated hyperlinks to referenced materials.

The audit manager advised that the annual report was the next deliverable and that issues had been found which reflected the continuation of issues discussed previously around capital and children's services. The audit manager said that recent guidance from the Department for Levelling Up, Housing and Communities on 'Measures to improve local audit delays' would be shared with the committee.

In response to a question from the chairperson on the section 'Local authority Covid-19 pressures' (agenda page 37), the director of resources and assurance advised that the council submitted updates to government and a breakdown of the returns could be provided to committee members. The cabinet member - finance, corporate services and planning said that information on the pressures and government funding were reported in the quarterly budget and performance reports to cabinet. A committee member commented on the additional costs of service delivery in rural areas and there was a brief discussion about comparing different local authorities.

In response to a question about the clause shown on the contents page (agenda page 28), the audit manager explained that: any matters identified as part of the audit planning process would be brought to the attention of the committee; there could not be full assurance over everything, so audit was undertaken to a level of materiality; and the committee should gain assurance from the totality of assurance providers, i.e. external audit, internal audit and other mechanisms. It was noted that materiality for the next financial year would be stated in the external audit plan.

Resolved:

That the external audit progress update, appendix A to the report, has been reviewed.

Action(s):

Action 134 Grant Thornton to share a document from the Department for Levelling Up, Housing and Communities in relation to the key actions arising from the Redmond Review.

This is available via the following link:

www.gov.uk/guidance/asures-to-improve-local-audit-delays

Action 135 The director for resources and assurance to provide a breakdown of returns in relation to additional expenditure due to Covid-19.

68. PROGRESS REPORT ON INTERNAL AUDIT ACTIVITY

The committee received a report on the progress of internal audit work; an updated 'Report of Internal Audit Activity' document had been issued in supplement 1 to the agenda which included updated charts and graphics.

The assistant director of South West Audit Partnership (SWAP) introduced the report, the principal points included:

- i. Since the previous update (27 October 2021, minute 42 refers), twelve audits had been finalised, with a total of eighteen audits completed for 2021/22.
- ii. Eleven audits were at draft report stage and there were fifteen audits in progress.
- iii. There was a noted delay completing the green homes grant testing, as the council had requested an extension to the scheme to 31 January 2022.
- iv. Community testing funding grant work had been completed for January to September, with an under claim of just under £30k identified and notified.
- v. For the twelve audits completed, one returned a substantial assurance, one returned a reasonable assurance, three were limited assurance, and seven were reasonable – grant certification.
- vi. For the three audits with limited assurance (Education Health Care (EHC) Plans, payroll and contract management), five priority 2 actions had been agreed.
- vii. Following a request from the committee, the section 'Outturn to Date – 2021/22' (supplement 1, page 27/28) now included the audit objective for each audit.
- viii. The section 'the Headlines for audits completed to date' highlighted the thematic findings as 'the need to update strategy and protocol documents' and in relation to 'quality of data from systems'; the findings had been discussed at the chief executive's management board.
- ix. Planned work continued to be impacted by Covid, including additional audits in relation to grant determinations.
- x. Both community testing funding grant and Test and Trace support payment audits would continue into quarter 4.

Responses were provided to questions from committee members, the key points included:

1. Payroll (supplement 1, page 23): The head of corporate finance advised that, in terms of 'acceptable tolerance', differences of less than £100 were monitored on a monthly basis, with differences exceeding £100 investigated. The chairperson requested that details of the quantum of differences that had been written off be circulated to committee members. The head of corporate finance confirmed that enhanced reconciliation checking had commenced from the target date of 31 December 2021.

In response to further questions about payroll, the head of corporate finance provided an overview of the live integrated payroll system, the complications associated with leavers and employees on sick leave or maternity leave, the reconciliation process, and the purpose of the holding code.

The vice-chairperson questioned the 'longstanding issues with the reconciliation of the holding accounts' and how this had been reflected in previous internal update progress reports. The assistant director of SWAP said that clarification would be provided about the timeline involved.

2. Education Health Care (EHC) Plans – Preparation for Adulthood (supplement 1, page 23): The assistant director of SWAP said that clarification would be sought on the treatment of priority 2 findings in terms of the risk register and improvement plan activities.
3. Action Plan to the OFSTED and Care Quality Commission Report (supplement 1, page 24): The assistant director of SWAP said that an update would be sought on the completion of the action by the target date of 30 November 2021.
4. Conclusion (supplement 1, page 33): A typographical error was noted where reference to '2021/11' should be to '2021/22'. In response to a request for clarification, the assistant director of SWAP confirmed that the report provided an update on internal audit plan progress for 2021/22 and on the finalisation of audits from 2020/21. The impacts of Covid and additional work in relation to grant determinations were reiterated. It was reported that the quarter 4 plan would pick up audits that were deferred from earlier 2021/22 quarters, although it might not be possible to finalise all within the current financial year.
5. SWAP Performance – Summary of Audit Opinions (supplement 1, page 30): The vice-chairperson expressed concerns about the balance of grant certification and other audit work in recent quarters and, excluding grant certifications, the relatively high percentage of limited assurance findings. It was also questioned whether, as discussed at a previous meeting (minute 42 of 27 October 2021 refers), additional resource had been secured to deliver some of the planned work. The assistant director of SWAP outlined the work being undertaken on grant certification and anticipated that there could be a return to normality with the audit plan in 2023/24 but SWAP did not have the additional capacity at present to bring forward any other audits beyond those included in the current plan. The director of resources and assurance commented that the activity of the council over the last two years had been dominated by the Covid response and, given the related grant funding, the work of internal audit work was appropriate and helpful. It was commented that some additional capacity had been obtained from SWAP but the ability to service work was finite, particularly given the increased demands from other clients.
6. Counter Fraud Update (supplement 1, page 45): A committee member commented that the counter fraud activity was to be applauded and could be brought to the wider attention of the public; this was explored further under the anti-fraud and corruption annual report (minute 69 below).

7. Internal Audit Work Plan Qrt 2 2021-22 (supplement 1, page 39): The assistant director of SWAP advised that the work on the 'Hereford City Centre Transport Package – Investigation' was nearly concluded and the final report was to be issued to the director of resources and assurance imminently, with a decision to be taken subsequently about the level of detail to be provided to committee members.

Resolved: That

- a) **performance against the approved plan has been reviewed and areas for improvement identified;**
- b) **the assurances provided and the recommendations which the report makes have been considered and commented upon;**
- c) **the proposed 4th quarter internal audit plan 2021-22, on page 22-23 of appendix A to the report, has been reviewed and the committee has considered the level and range of activity proposed in order that the work carried out may give a satisfactory level of assurance over the council's corporate governance arrangements; and**
- d) **The corporate fraud update be noted.**

Action(s):

- Action 136 Information to be circulated on the quantum of write offs in relation to payroll.
- Action 137 Confirmation to be provided of treatment of priority 2 findings in terms of the risk register and the current status with meeting the target dates for the identified actions.
- Action 138 An update be provided on the 'longstanding issues with the reconciliation of the holding accounts', particularly in the context of previous internal update progress reports.

69. ANTI-FRAUD AND CORRUPTION ANNUAL REPORT

The committee received an annual update on counter fraud activity.

The head of corporate finance introduced the report, drawing attention to: the summary of the position in relation to Covid-19 business support grants (agenda page 77); the introduction of a mandatory 'fraud awareness and prevention' e-learning module for staff; comprehensive fraud risk assessments being undertaken with services across the council; a new fraud awareness intranet page, with a new fraud referral form on the platform; and the examples of successful outcomes shown at paragraphs 19 - 22 (agenda page 76).

The main points made during the discussion included:

- i. The head of corporate finance advised that the new fraud referral form had been in place since November 2021 and had been utilised, adding that a similar process was being developed for the public to use via the council's website and this was due to go live from April 2022.

- ii. The chairperson congratulated the counter fraud specialist for being a finalist for the 'Outstanding Young Professional of 2021' at the 'Tackling Economic Crime Awards'.
- iii. The head of corporate finance said that there was a published flowchart process to filter referrals appropriately.
- iv. A number of attendees welcomed the high quality of the report and the progress that had been made.
- v. A committee member commented on the value of local government involvement in managing and recovering business grants.
- vi. The head of corporate finance said that government funding for new burdens had been fully utilised in the Covid-19 grant activity.
- vii. Referring to paragraph 31 (agenda page 77/78), a committee member questioned how the detection of instances of fraud would be reflected in the relevant risk registers. The counter fraud specialist confirmed that the council had been working closely with internal audit on fraud risk assessments which would underpin the approach and feed into the new risk register system that was in development.
- viii. The director of resources and assurance praised the work of the counter fraud specialist and the wider team, particularly in managing the risks associated with Covid business grants, raising fraud awareness across the council, and in building strong links with other agencies and sharing intelligence. In response to a question from the chairperson, the director considered that the balance was right in terms of support resource but would wish to look at this a year after the Covid arrangements had come to an end.
- ix. The cabinet member - finance, corporate services and planning also congratulated officers on this work and noted the need for high levels of vigilance and motivation, especially given the creative and changing ways in which some people attempted to defraud public bodies and other organisations.
- x. The chairperson commented that the report was full of relevant interest and suggested that the successful outcomes should be communicated to the public. Other committee members commented on the potential to publicise counter fraud activity as a deterrent to others and to reassure the public that the council was providing as much security as it could.

Resolved: That

- a) the annual report has been reviewed; and**
- b) the department works with the communications team to produce a press release about ongoing counter-fraud activity and the successes during the past year.**

Action(s):

Action 139 As per recommendation b) above.

[Note: To assist with the efficient transaction of business, the agenda item 'Re-thinking governance' was considered before the agenda items 'Annual governance statement 2020-21 actions' and 'Annual report on code of conduct' but the original agenda order has been maintained in the minutes for ease of reference]

70. ANNUAL GOVERNANCE STATEMENT 2020-21 ACTIONS

Further to the annual governance statement agreed on 27 September 2021 (minute 33 refers), the committee received an update on the mid-year actions and on the future arrangements for producing the annual governance statement.

The main points made during the discussion included:

- i. Action 13, Produce a Covid Recovery Plan (agenda page 87): It was questioned how the recovery plan would link to wider resilience plans, particularly in terms of adult social care. The director of resources and assurance said that this would be queried with the relevant officers.
- ii. Significant Partnerships (agenda page 82): It was questioned whether the relevant portfolio holder should be included in the significant partnerships self-assessment forms. The director of governance and law advised that the partnership governance framework was to be reviewed, as shown in Action 8 (agenda page 86).
- iii. The chairperson noted the key on status (with each action marked as complete, part complete or not complete) and commented that, in view of the number of actions, it was difficult to ascertain which actions should have more priority than others.
- iv. Action 21, Promotion of becoming a council member reflective of flexibility with increased virtual meetings (agenda page 88): the chairperson noted that statement that 'remote meeting regulations have not continued in operation' and the status of this action and others could be further reviewed.
- v. The vice-chairperson considered that there should be more information included in the 'evidence of complete' to reflect the work being undertaken and progress made; as an example, attention was drawn to Action 16, Implement improvement plan for value for money on the public realm contract (agenda page 87) which stated 'Improvement board overseeing improvement process'.
- vi. Noting that some actions would be undertaken in the longer term, the chairperson said that an anticipated date by which each action should be completed could focus management attention and suggested that the chief executive's management board be invited to consider whether this would be helpful.

Resolved: That

- a) the mid-year actions based on the identified continuous improvement points in the 2020-21 annual governance statement be noted; and**
- b) the arrangements for the 2021-22 annual governance statement be noted.**

Action(s):

Action 140 With reference to Action 13, an update be provided on how the Covid Recovery Plan will link to wider resilience plans, particularly in terms of adult social care.

Action 141 That the chief executive's management board be invited to consider whether the senior action leads should be asked to include projected

anticipated dates for completion, particularly to ensure that the position with longer term actions is clear.

71. ANNUAL REPORT ON CODE OF CONDUCT

The committee received an annual update on the code of conduct and on the arrangements for dealing with complaints.

The director of governance and law introduced the report, the principal points included:

- i. two independent persons had resigned but four independent persons continued to play an important role in the process;
- ii. the Local Government Association (LGA) 'Model Councillor Code of Conduct' was appended to the report (agenda pages 101 – 116) and it was recommended that consultation be undertaken with all members of this council, together with all parish and town councils, on adopting the model code and related arrangements;
- iii. attention was drawn to the number of complaints handled (paragraph 25, agenda page 94), with the primary cause for complaint relating to lack of respect;
- iv. the implications of councils holding remote meetings during the Covid pandemic in terms of accessibility and conduct were explored briefly;
- v. there had been three upheld complaints;
- vi. there were parish councils with a number of complaints but the monitoring officer could only assist with code of conduct complaints;
- vii. focus on the Covid response had resulted in some delays which had been reported to the standards panel;
- viii. it was important to be mindful of the 'Nolan Principles' and, at the recommendation of the committee, the seven principles of public life were published in the agenda for meetings held in public;
- ix. attention was drawn to the recommendations action tracker appended to the report (agenda page 117/118), particularly to the actions on hold due to the work of the LGA on the model arrangements; and
- x. training for councillors would be recommenced during the current year.

The chairperson made a number of comments, including:

- The independent persons were thanked for their work in supporting the monitoring officer and in offering support to councillors who were subject to complaints.
- It was suggested that the dispensations granted to Herefordshire Council councillors be summarised in a single location on the council's website.
- It was suggested that the number of complaints referred to the police be included in the complaints received table in future reports.
- Noting the additional recommendation c) about consultation on the model code, the chairperson suggested the inclusion of the Herefordshire Association of Local Councils as part of this activity.

- In response to a question, the director of governance and law said consideration would be given to the support that was available for potential complainants who did not speak English as a first language.

In response to other questions from committee members, the director of governance and law advised that: in relation to recommendations from the standards panel (agenda page 99), a range of scenarios, such as referrals from chairpersons of committees, would be considered in terms of making 'it clear who can make a complaint'; a breakdown of the general origins of complaints could be provided to Walford Parish Council; failure to submit a completed registration of interests form within 28 days of a councillor's election or appointment to office would represent a breach of the code of conduct; training was mandatory for Herefordshire Council councillors but was advisory for parish and town councillors; training could be recommended more than once in response to complaints; it was noted that the model code included an undertaking by councillors to 'undertake Code of Conduct training provided by my local authority' if so adopted by the relevant council; and the principal differences between the model code and the existing local code related to the estimated value of any gift or hospitality to be registered and to the matters included in schedule 2 interests.

Later in the meeting, Jake Bharier, an independent person that was in attendance, commented on the level of public interest in standards currently and the challenges arising from the Localism Act 2011 which had effectively taken parish and town councils out of any formal structure for monitoring and support.

Resolved: That

- a) **the annual report on code of conduct complaints has been reviewed;**
- b) **the recommendations from the standards panel, appendix 1 to the report, following their annual sampling exercise, be adopted as appropriate into the action tracker;**
- c) **consultation with all members of this council, together with all parish and town councils, and the Herefordshire Association of Local Councils, on adopting the LGA Model Code of Conduct and arrangements is commenced; and**
- d) **the progress outlined in the code of conduct action tracker, appendix 3 to the report, be noted.**

Action(s):

- | | |
|------------|---|
| Action 142 | That dispensations granted to Herefordshire Council councillors be summarised in a single location on the council's website. |
| Action 143 | The number of complaints referred to the police, even if nil, be included in the complaints received table in future reports. |
| Action 144 | A breakdown of the general origins of complaints be provided to Walford Parish Council. |

72. RE-THINKING GOVERNANCE

The committee considered a report on the suggested amendments to the council's constitution proposed by the re-thinking governance working group for recommendation to Council; 'The Planning Rules and Code' were issued in supplement 1 to the agenda.

On behalf of the committee, the chairperson thanked the re-thinking governance working group for the work that had been undertaken and explained that a workshop had been held for committee members on the amendments.

The director of governance and law introduced the report, the principal points included: in 2019, Council had resolved to review its governance arrangements and had subsequently resolved to retain and improve the cabinet model of governance; the guiding principles were outlined and it was confirmed that these had been applied throughout the process; the key changes were outlined, including the introduction of a new scrutiny management board, an annual effectiveness review of committees, and revisions to the public questions procedure; the audit and governance committee functions were being examined in view of new guidance and would be presented to a future meeting; the planning rules and code had been combined; adjustments had been made to the employment panel functions; and various other changes had been made, as shown in the tracked changes documents appended to the report.

The interim head of legal services provided an overview of the changes that had been made following the workshop, including in relation to: the composition of each committee; the responsibilities of the scrutiny management board; the role of a scrutiny committee; joint arrangements; scrutiny committee and management board remits; the audit and governance committee functions; the glossary that was being developed; the retention of the wording as drafted for 'who may sit in a scrutiny committee?'; the planning rules and code; and the employment rules.

The director of governance and law also outlined a number of operational changes that were planned to take place, including revisions to the council's forward plan, scrutiny web pages, and key decision consultation process.

The main points made during the discussion included:

- i. Individual officers and individual members were thanked for their considerable efforts in support of this project.
- ii. It was commented that all political groups should be engaged in the ongoing work.
- iii. In response to a question about the ability of a chairperson to reject a supplementary question (paragraph 5.8.23, agenda page 294), the director of governance and law said that the wording 'on any of the grounds detailed in the section above' could be reinstated.
- iv. It was suggested that the audit and governance committee functions could be considered at a special meeting of the committee in February 2022. The director of governance and law confirmed that the section was a standalone document; therefore, the documents presented at this committee meeting could be recommended to full Council for adoption.
- v. The chairperson expressed concerns about the resourcing of the new committees, commented on the need for sufficient project management, and suggested that further consideration be given to the resourcing to ensure that the new arrangements could start in a positive, proactive and successful way. The director of governance and law said that it was planned that there would be dedicated resource to support this work.

Resolved: That

- a) **having regard to the work undertaken by the re-thinking governance working group, the revised constitution as set out at appendices 1 to 27 of the**

agenda pack, plus the Planning Rules and Code included in supplement 1 to the agenda and subject to the reinstatement of the words 'on any of the grounds detailed in the section above' in constitution paragraph 5.8.23 (as shown on agenda page 294), be recommended to full Council for adoption, with implementation with effect from 20 May 2022; and

- b) authority be delegated to the director of governance and law to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution.**

73. WORK PROGRAMME UPDATE

The committee noted the work programme.

Further to minute 72 above, the potential for a special meeting of the committee in February 2022 to consider the audit and governance committee functions was explored.

[Note: the special meeting was cancelled subsequently, with this item likely to feature at the scheduled 3 May 2022 meeting]

Resolved:

That the work programme for the audit and governance committee be agreed.

74. DATE OF NEXT MEETING

The next scheduled meeting was to be held on 15 March 2022, 10.15 am.

The meeting ended at 1.09 pm

Chairperson

Questions from members of the public

Audit and governance committee, 25 January 2022

Question from Claire Trumper

Does the audit and governance committee agree that the council's formal complaints process against councillors and co-opted members does not give a defendant licence to disregard UK laws on privacy, data protection and defamation and that in practice this means that in their written defence statement a defendant

- (i) may not make defamatory statements
- (ii) may only write about matters relevant to the complaint
- (iii) and when writing about relevant matters may not be reckless with regard to privacy and confidentiality?

Response

Under the council's code of conduct arrangements, the member subject to a complaint, will be asked to make a written representation to the monitoring officer, which must be taken into account when deciding how the complaint is dealt with.

That written reply is a matter for them and they are responsible for the content which should not breach any UK laws.

