

Minutes of the meeting of the Audit and Governance Committee held in Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Monday 13 March 2023 at 2.00 pm

Committee members present in person and voting: Councillors: Jenny Bartlett (Vice-Chairperson), Christy Bolderson, Dave Boulter, Clare Davies and Nigel Shaw (Chairperson)

Others in attendance: B Baugh (Democratic Services Officer), A Lovegrove (Director of Resources and Assurance), S O'Connor (Head of Legal Services and Deputy Monitoring Officer), A Rees-Glinos (Democratic Services Support Officer), J Sumner (Interim Director of Strategy) and D Upton (Senior Lawyer, Corporate Services)

71. APOLOGIES FOR ABSENCE

Councillors Peter Jinman and David Summers were unable to attend the meeting in person but both committee members participated via remote attendance.

72. NAMED SUBSTITUTES (IF ANY)

There were no substitutes.

73. DECLARATIONS OF INTEREST

No declarations of interest were made.

74. MINUTES

The committee received and agreed the minutes of the previous meeting.

The action log for the committee was noted. Following the circulation of a briefing pack to committee members in relation to actions 94, 102, 110, 160 and 179, an updated action log was provided in the meeting room.

With reference made to the response to supplementary question B in Appendix 1 to the minutes, 'Questions and responses, plus supplementary questions and responses', the Head of Legal Services and Deputy Monitoring Officer explained that criminal activities would be reported to the police but not all unlawful activities were routinely reported. Further information was requested as an action.

RESOLVED:

That the minutes of the meeting held on 30 January 2023 be confirmed as a correct record and be signed by the chairman.

Action(s)

188 Confirmation be provided about any memorandum of understanding in place with West Mercia Police and who would determine which criminal or unlawful matters would be referred to the police.

Action update:

There is already a written protocol between the Police and the Council where matters under the Code of Conduct that could amount to criminal offences are notified between the Monitoring Officer and the Herefordshire Superintendent. In addition, there is the Herefordshire Information Sharing Protocol where the main public bodies within the county have agreed protocol for sharing and processing of data where necessary for statutory functions. This includes the Police and the Council.

In practice, any matter arising from whistleblowing that amounts to a criminal offence would be reported to the Monitoring Officer who would advise the relevant Council officer. Where the Monitoring Officer considers that sufficient information exists then she would refer the matter to the Police contact. Ordinarily, if required, the Monitoring Officer will consult with the relevant officers (for example, s151 officer if the matters relates to finances) before making a referral.

75. QUESTIONS FROM MEMBERS OF THE PUBLIC

It was reported that a question had been received from a member of the public but this was not directly related to a function of the Audit and Governance Committee. As the question related to a suggestion for a potential topic for a scrutiny committee and the treatment of such suggestions, a response had been provided about the scrutiny work programming activity that would take place following the Annual Meeting of Council.

76. QUESTIONS FROM COUNCILLORS

No questions had been received from councillors.

77. RECRUITMENT OF INDEPENDENT PERSONS AND STANDARDS UPDATE

The Senior Lawyer introduced the report, with attention drawn to the following:

- i. Although there had been expressions of interest, a recruitment exercise for additional Independent Persons had not resulted in any applicants coming forward.
- ii. The two existing Independent Persons, Jake Bharier and Claire Jenkins, had indicated that they would be willing to undertake a further four year term.
- iii. Consequently, there was not a complement of at least four Independent Persons currently.

In response to questions from committee members, the Senior Lawyer advised:

1. Noting the intention to hold an additional meeting before the end of the municipal year, the recruitment exercise could be undertaken again, with a further report made to the next meeting.
2. Feedback could be sought from those people that had indicated expressions of interest, albeit some may have identified connections which could disqualify them.
3. A link could be provided to the dedicated Code of Conduct complaints area on the council's website.
4. Appendix 1, 'Arrangements for dealing with complaints about the Code of Conduct for Members', section 4 'Preliminary Tests – two stages' (agenda page 30), would

be amended to read 'It is against one or more named members or co-opted members of the council or a town/parish council ~~outside~~ *inside* the council's area'.

5. With reference made to section 6 'Informal Resolution' (agenda page 32), statistics relating to informal resolutions would be provided in the annual report. It was noted that the Monitoring Officer would determine whether an investigation was in the public interest, taking into account the recommendation of the officer dealing with the complaint and the views of two Independent Persons.
6. With reference made to section 12 'Sanctions' (agenda page 35), sanction (3) 'Instruct the Monitoring Officer, or recommending to the Parish / Town Council, to arrange training for the member', the Monitoring Officer could arrange training for a Herefordshire Council member but could only make a recommendation to a local council.
7. In the event that no further applicants came forward, potential options for the roles undertaken by the Independent Persons could be considered
8. It was intended that the annual code of conduct report would be presented to the June 2023 meeting and this would be added to the work programme for 2023/24.

Resolved:

That:

- a) **Full Council (at its Annual Meeting) be recommended to appoint Jake Bharier and Claire Jenkins as Independent Persons for a four year term (this recommendation may be modified if more approved applicants were identified before the next meeting of the committee);**
- b) **The revised procedure to be used when dealing with complaints, set out at Appendix 2 to the report, be noted; and**
- c) **The new website pages be noted.**

Action(s)

- 189 The link to the dedicated Code of Conduct complaints area on the council's website be provided to committee members.

Action update:

The new 'Code of Conduct complaints' webpage is available at:
<https://www.herefordshire.gov.uk/council/get-involved/8>

78. WHISTLEBLOWING POLICY

The Senior Lawyer introduced the report, the principal points included:

- i. The Whistleblowing Policy had been rewritten to: provide clarity about the handling of concerns and the support to be provided; include a procedure for managers; enable the policy to be used by staff at maintained schools; and assure members of staff about the independence of the Monitoring Officer, as they had a legal duty to report to the Council any instances of non-compliance with the law or maladministration.

- ii. The draft policy had been informed by comments received from Human Resources but no comments had been received from the trade unions.
- iii. Following a discussion at a previous meeting ([minute 57 of 21 November 2022 refers](#)), further thought had been given to externalised support but, with around six to eight cases per year, it was considered that whistleblowing cases could be monitored through a spreadsheet.
- iv. If staff members did not feel able to raise a concern with a line manager or another senior officer, independent advice could be sought from Protect ([link to the website of the whistleblowing charity](#)) or matters could be reported through a relevant body ([link to a list of prescribed people and bodies](#)).
- v. In view of the channels available, it was not considered that the facility for staff to make disclosures via another local authority, currently Buckinghamshire Council, was necessary.

In response to questions from committee members, the Senior Lawyer advised:

1. The trade unions had not responded to a request to contribute to the review of the policy (11 January 2023) or to a request for comments on the proposed changes (9 February 2023).
2. The number of whistleblowing cases had been fairly consistent over the last four years and were slightly higher than those received by equivalent sized local authorities. Nevertheless, the need to publish and raise awareness of the revised policy was recognised.

A committee member commented on the need to raise awareness of the health and wellbeing services available to staff members.

The Chairperson suggested that committee members be informed about the process by which the policy would be propagated among staff members.

3. With reference made to the 2022 Employee Survey (where 78% of staff members agreed that 'I feel able to raise any concerns with my manager', and 65% agreed that 'I feel I could report a concern about my manager'), the added value of staff members being able to make disclosures via another local authority was explored further. The Senior Lawyer described the current arrangement as a 'postbox', with concerns referred to Herefordshire Council, and that Protect and other relevant bodies provided equivalent functions.

It was suggested that an additional question about whether staff members felt confident about using the Whistleblowing Policy could be considered for inclusion in the next Employee Survey.

4. It was confirmed that the council could commission external support on an 'ad hoc' basis in the event that independent investigations were needed.

Further points raised during the discussion included:

- It was considered that the item should be deferred to provide a further short period for the trade unions to comment, with appropriate encouragement to do so from Human Resources and from the Chairperson.
- In relation to the Whistleblowing Checklist (agenda page 49), where the employee had requested confidentiality, it was considered that the caveat 'we will not

disclose your identity, without your consent, unless required by law' should be subject to an explicit acknowledgement from the employee reporting the concern. It was suggested that the caveat could be repeated above the signature section (agenda page 52).

- It was requested that further consideration be given to the wording in section 5.7 'Raising your concerns', step three (agenda page 44), in relation to Protect and that an erroneous link in Appendix A 'Procedure for Managers Receiving a Concern' (agenda page 46) be corrected.

Resolved:

That consideration of the revised Whistleblowing Policy and associated guidance be deferred until the next meeting to provide a further short period for the trade unions to comment and for clarifications to be provided in terms of:

- a) The process by which the Whistleblowing Policy would be propagated among staff members;**
- b) The potential for an additional question to be included in the next Employee Survey about whether staff members felt confident about using the Whistleblowing Policy; and**
- c) Suggested changes to: explain the function of Protect in section 5.7, step three, of the Whistleblowing Policy; repeat the caveat on confidentiality before the signature box in the Whistleblowing Checklist; and correct the link in the Procedure for Managers Receiving a Concern.**

79. REVIEW OF APPROACH TO STRATEGIC RISK MANAGEMENT

This report had been circulated in a supplement to the agenda. The Director of Transformation introduced the report, the principal points included:

- i. The management of risk had been 'bottom up' rather than 'top down', and changes to the approach would include: rigorous reviewing and updating; consistency in the use of the scoring matrix; managing risks strategically; aggregating similar risks within and across the directorates; a proactive role for the Corporate Leadership Team (CLT) to provide opportunities for challenge and discussion; and a review of the council operating model, including the delivery of support services, as part of the Thrive Transformation Programme.
- ii. Processes would be reviewed in line with the principles of 'simplify, standardise, share'.
- iii. The Corporate Performance Team had made good progress in implementing the Corporate Performance Improvement Plan.
- iv. In addition to a request made by the committee 'to undertake a 'deep dive' into selected risks in the directorate risk registers' (actions 184), CLT intended to hold a similar workshop.
- v. Consideration would be given to external strategic risks, linking to the National Risk Register and the Local Resilience Forum.
- vi. Training would be commissioned for senior officers and members for the new municipal year.

- vii. CLT would set the organisational risk strategy in relation to the council's transformation programme.

In response to a question about the risk scoring matrix, paragraph 5 of the report (supplement page 4), the Director of Transformation noted the need to make it clear that the review frequency related to formal review and it was expected that the highest scoring risks would be monitored in the meantime.

Further points raised during the discussion included:

- It was not considered that recommendation b) of the report, that the committee 'review the approach to risk management in the context of the organisation embarking on a major transformation programme, Thrive', could be achieved at this meeting given the limited information provided in the report about Thrive.
- Disappointment was expressed that the strategic risk register was not yet available to the committee. It was requested that a further report to detail the approach to strategic risk management, including an associated risk management matrix, be provided within three months.
- The Vice-Chairperson noted that paragraph 9 (supplement pages 4 – 5) summarised the areas for improvement identified by the committee and commented on the need to: track changes to the risk management approach; understand the risks that may have been missed as a consequence of a lack of consistency in the approach to identifying them; and explain the connections with the work of health partners and the Health and Wellbeing Board.
- Given the potential changes to committee membership in the new municipal year, the Chairperson noted the need to provide appropriate background in the next report.

Resolved: That

- a) The steps being taken toward a more strategic approach and a more visible corporate grip on risk, in the light of the committee's previous discussions, be noted;**
- b) The assurances provided have been considered and the committee has commented on its content; and**
- c) A further report on the approach to strategic risk management be provided to the June 2023 meeting of the committee.**

Update: This further report is now expected at the September 2023 meeting.

80. WORK PROGRAMME

The committee's updated work programme was considered. With items awaited from Internal Audit and External Audit principally, plus further reports expected on 'Recruitment of Independent persons' and 'Whistleblowing Policy', it was intended that an additional committee meeting would be arranged before the end of the municipal year.

Resolved: That

- a) The updated work programme for the Audit and Governance Committee be agreed; and**

b) A further meeting be arranged before the end of the municipal year. *

[*Note: It was determined subsequently that it was appropriate to defer the business of the meeting until the next municipal year]

The meeting ended at 3.48 pm

Chairperson