

Minutes of the meeting of the Audit and Governance Committee held in Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Tuesday 12 December 2023 at 2.00 pm

Committee members present in person and voting: **Councillors: Chris Bartrum, Frank Cornthwaite, Robert Highfield, David Hitchiner (Chairperson) and Aubrey Oliver (Vice-Chairperson)**

Committee members participating via remote attendance: **Councillor Mark Woodall**

[Note: Committee members participating via remote attendance, i.e. through video conferencing facilities, may not vote on any decisions taken.]

Others in attendance: B Davies (Senior Lawyer), I Halstead (Assistant Director, South West Audit Partnership), R Hart (Head of Strategic Finance), J Higgins (Governance Support Assistant), K Lloyd (Performance Team Lead), S O'Connor (Head of Legal Services and Deputy Monitoring Officer), T Page (Complaints and Children's Rights Manager), J Preece (Democratic Services Officer) and H Worth (Information Governance Manager)

54. APOLOGIES FOR ABSENCE

No apologies were received.

55. NAMED SUBSTITUTES (IF ANY)

There were no substitutes.

56. DECLARATIONS OF INTEREST

No declarations of interest were made.

57. MINUTES

RESOLVED:

That the minutes of the meeting held on 24 October 2023 be confirmed as a correct record and signed by the chairman.

58. QUESTIONS FROM MEMBERS OF THE PUBLIC

No questions had been received from members of the public.

59. QUESTIONS FROM COUNCILLORS

No questions had been received from councillors.

60. ANNUAL REVIEW OF THE COUNCILS INFORMATION REQUESTS AND COMPLAINTS 2022/23

The committee considered a report on performance in the areas of complaints, data incidents and requests for information made to the council over the municipal year 2022/23.

The Information Governance Manager (IGM) informed the committee that the information held in the report was from 1 May 2022 to 30 April 2023. The following points were highlighted:

1. The volumes of freedom of information (FOI) and environmental information regulations (EIR) requests fell slightly in comparison to the previous municipal year.
2. The information governance team (IGT) have continued to see a steady decrease in requests received since April, however it was highlighted the number of subject to access (STA) requests had increased.
3. The IGT are responsible for investigating data breaches and risk assessing and advising service areas of how to ensure that those breaches do not reoccur.

In response to committee questions, it was noted:

- I. The information request process was explained.
- II. The IGM informed the committee that where a similar request had been made previously or where they knew the information was held on the website or could be found quickly, these are being treated as “business as usual” rather than being recorded as an FOI.
- III. The IGM informed the committee of the [disclosure log](#) on the Councils website which members of the public can use to search published requests responded to since January 2022. The website also provides a frequently asked questions which suggests what the Information Governance Team (IGT) may not respond to founded on previous responses.
- IV. The IGM provided the committee with examples of data incidents.
- V. It was noted that the Council was moving across to Office 365 which meant address books are no longer shared which would decrease the number of emails being sent to the wrong recipient.
- VI. The IGM confirmed that making employees aware of “phishing emails” is the responsibility of the IGT and that the team undertake “phish exercises” by sending out “spoof test” emails to employees at random. At the last test 6% of staff were found to still be clicking on the links which was felt to be too high and further reminder emails were sent out to all staff.
- VII. Based on the Information Commissioner’s Office (ICO) guidance the IGM clarified that in order for a breach to meet the threshold for reporting an assessment would be carried out on the number of people involved, the information and the sensitivity of that information. The breach would then be scored. A score of two or above would be reviewed with the Ofwat’s Senior Information Risk Owner (SIRO) before it is considered reporting to the ICO.
- VIII. It was reported of the breaches reported to the ICO over the last 12 months, the ICO have been pleased with the actions that the Council had taken and they considered that no further action was required from themselves.
- IX. The IGM confirmed the status of the Councils storage and back-up systems.

The Complaints and Children’s Rights Manager (CCRM) informed the committee there had been a significant increase in complaints made from the previous year, this was

thought to be due to the complaints procedure having been made more accessible to the public in particular Children and Families.

1. The CCRM provided a brief overview of the operation of the Corporate Complaints Policy and Procedure, and of the separate Children's Representations and Complaints Policy and Procedure.
2. It was highlighted that more complaints were being dealt with "in house" by working with the relevant service areas and complainants by means of mediation.

In response to committee questions, it was noted:

- i. The CCRM highlighted that although there had been an increase in Children's complaints the way in which complaints were assessed had been changed. The Local Government and Social Care Ombudsman (LGSCO) had issued much clearer guidance on assessing complaints and it was thought the increase was due to the complaints now being processed under the correct policy. The increase was thought to mean that members of the public felt they could complain, they would be listened too and that their concerns would be resolved.
- ii. The CCRM explained that her team would try to resolve any issues for members of the public such as the retrieval of information or connecting them with a relevant members of the council in order to avoid going through the formal complaints procedure.
- iii. In relation to a question surrounding the increase of escalations, the CCRM explained that it was her responsibility to inform everybody of their rights to complain. An example was given of a corporate complaint and that once investigated if the complainant was not content with the response, they have a right to go to the ombudsman. She was unconcerned with the increase as the public were being made more aware of their rights to escalate their complaints.
- iv. The CCRM confirmed that there was no "laid down" procedure for informal resolutions. Some examples of recurring themes and resolutions were given from the Economy and Environment and Children's and Families Directorates.
- v. Quarterly reports are sent to directorate management teams which highlight the areas of complaints and recommend action to be taken, complaints trend data can be actively used to anticipate problem areas for service users and training needed for council staff.

It was highlighted that although some of the aspects of the Annual review of the council's Information Requests and Complaints report align with the Audit and Governance Committee functions it was not currently listed under the committees terms of reference and the Head of Legal service in conjunction with the Monitoring Officer would determine whether this report was presented to the Committee moving forward.

Resolved:

That the information set out in the report regarding requests for information, data protection compliance and complaints over the past year has been reviewed.

Action 2023/24-016 The Head of Legal service in conjunction with the Monitoring Officer conclude whether this report is still presented to the Audit and Governance Committee moving forward.

61. UPDATE ON INTERNAL AUDIT RECOMMENDATIONS

The Performance Team Lead (PTL) provided the committee with an update on the progress made in the council's response to audit recommendations made by South West

Audit Partnership (SWAP) in their audit reports issued before September 2023. It was highlighted;

1. Of the 34 recommendations that were previously reported to the committee as overdue, 7 have since been completed, 1 deferred and 26 remain outstanding.
2. Of those recommendations due between April 2023 and September 2023, 21 of 34 recommendations were reported as completed. This was compared to 47% when last reported to the committee 6 months ago.
3. Whilst the PTL found the proportion of recommendations being actioned within period to be improving, 13 of those recommendations had not been completed and will be added to the 26 previously overdue and reported as still outstanding recommendations, meaning the actual number of recommendations reported as overdue when next reported would have increased.
4. The PTL noted that focus would be given in ensuring those historical recommendations are acted on or at least a statement to the committee within the report to state changes that had taken place within the service that meant those recommendations are no longer relevant. The PTL suggested that when SWAP audits are conducted more consideration be given in setting target dates to ensure dates are less likely to be missed in the future.
5. Of the 3 future recommendations, all are on track to be completed within planned timescales, or have already been completed; it was noted that from previous forecasts it was expected that these would all be completed when the report was brought back to committee in six months' time.

In response to committee questions, it was noted:

- I. The PTL explained the completion rates had improved since previously reported but the percentage still could be improved and should be higher. As highlighted previously more focus needed to be on the completion of historical recommendations and service areas needed to work with SWAP initially to identify realistic target completion dates.
- II. In response to questions received surrounding the unspent green homes grant funding, the PTL explained as he is only responsible for chasing and updating actions he was unable to provide an answer. The questions were noted and a written response would be established from the relevant service area.

The Chair of the committee made a request that all recommendations are reviewed and to establish whether any could be removed with an explanation provided and also that when target dates are set they are realistic.

- III. The PTL confirmed over the next 6 months his intention was to follow up with all the service areas that had incomplete recommendations to establish whether or not these recommendations were still live and worth completing. If it was found that they were not, a statement and agreement between ourselves and swap that they were content for them to be removed would be provided in the report brought to the committee.
- IV. The PTL explained the priority levels, however in his role as an action tracker he treats each recommendation equally in trying to obtain an update.

Resolved: That

- a) **the status of current audit recommendations be noted and;**
- b) **all historic recommendations and their priorities to be reviewed by relevant service areas and Swap to see if they are still relevant.**

Action 2023/24-017 The PTL to source answers following the questions asked around the unspent green homes grant funding.

62. ENERGY FROM WASTE LOAN UPDATE

The Head of Strategic Finance (HSF) introduced the report the purpose of which was to update the Audit and Governance Committee on the current status of the energy from waste loan arrangement and to enable the Committee to fulfil its delegated functions. The following principal points were made:

1. The HSF explained that the Council acted as a joint lender with Worcestershire County Council to Mercia Waste Management limited (MWML). The loan was used to buy and operate an energy from waste plant in Hartlebury in Worcestershire. The asset is used to recycle and recover energy from waste collected across the two counties.
2. The report confirms that the repayments have been made by the borrower in line with the loan agreement.
3. The HSF explained that financial covenants look at the position and performance of the borrower and provide assurance over the risk of their ability to meet future debt repayments. It was confirmed that these had been met by the borrower.

In response to committee questions, it was noted:

- I. The HSF provided the committee with further explanation of the “ratios” listed on [page 75 paragraph 9](#).
- II. The HSF explained that there are a number of working papers underneath the assessment of compliance and that some of that information will be available in those companies accounts but in terms of cash flow it is not reported on a monthly basis in a set of published or audited accounts but is information that is provided to the Council as part of the requirement of the agreement with MWML.
- III. The HSF explained the compliance value is the value set within the loan agreement (the value that we are expecting them to meet) and the actual value is how they have performed.
- IV. The HSF was unable to confirm that the loan agreement would be repaid by the end of its term, however confirmed the terms and conditions of the loan agreement and provided assurance through this mechanism that they are currently meeting the conditions within that loan so the current loan agreement provides for the repayment of the outstanding balance in full in January 2029 via a bullet payment for the remaining balance.
- V. The HSF confirmed a review had taken place by an external body in the last 12 months of the loan agreement which included a review of the conditions attached and the compliance ratios.

Resolved that:

- a) **The risks to the Council, as lender, were confirmed as being reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and**
- b) **Arrangements for the administration of the loan were reviewed and confirmed as satisfactory.**

63. AMENDMENTS TO THE CODE OF CONDUCT REPORTING PROCESS

The Head of Legal Services (HLS) introduced the report the purpose of which was to propose changes to the code of conduct arrangements in particular the way that members of the standards panel are made aware of the decisions made by the monitoring officer and officers. The proposal is to improve transparency, usefulness and time of member feedback for officers and the monitoring officer.

The HSL provided the committee with a presentation highlighting the relevant changes proposed, in response to committee questions, it was noted:

1. In relation to concerns with the new process taking up more time of officers, the HLS said the situation would be monitored but suggested having looked at the time that had been spent preparing for a particular meeting the new process would be considerably less as it would just be information sharing over email or an informal conversation with members in real time rather than an official meeting and preparing for an official meeting six months to a year after the actual issue had been dealt with.
2. The HSL explained that the Council has 4 independent persons who are usually picked on their availability to sit on the standards panel. Once a complaint is started, the same independent person would be used throughout the process. It was confirmed that the parish council representative is nominated by Herefordshire Association of Local Councils (HALC).
3. The HSL confirmed there was no official sanctions under the Council's code of conduct. The code of conduct reporting process / a standards hearing was the only sanction in place.
4. A report from the standards commission went before central government two years ago with regards to making changes around sanctions but the response back was they had no current plans to make any changes to the to the current regime.
5. The HSL explained that the Chairperson of the committee only has authority as set out in the constitution which is typically in relation to the conduct and efficient discharge of a meeting and currently does not give them the power to remove a member from the panel/ committee. It was explained that only full council could remove a member from a committee, but where a sub-committee had been created, the owners of the Sub-Committee were entitled to remove / amend members as necessary.
6. It was highlighted that the Audit and Governance committee were responsible for appointing the three members to the standards panel.
7. With regards to the wording in Appendix 2 "Such notices will be retained until the later of 6 years, or the subject member ceasing to be an elected member". the HSL recognised comments made surrounding councillors who leave and return to the authority. It was suggested that the wording be revised to state notices will be retained for 6 years.
8. It was suggested and agreed that should for any reason a member of the standards panel be unable to act (a complaint made against them, a conflict of interest, sickness etc.), the committee appoints a further 2 members as "reserves".

RESOLVED

That Committee:

- a) **Considered and approved the proposals in principle; and**

b) recommended to full Council to change the Constitution as set out in Appendix 1 to enable:

- (i) a change to process used by Standards Panel to better enable concurrent oversight of the Code of Conduct standards arrangements as set out in the report; and**
- (ii) a change to the Code of Conduct, in relation to Disclosure of Non-Registerable Interests, to reflect case law on this issue and to protect the position of all members by clarifying the circumstances in which disclosure in a relevant meeting will be appropriate, and, in such case, what appropriate participation may follow;**
- (iii) the Audit and Governance committee to have the provision to appoint a further two members to the standards panel in reserve should a permanent member be unable to act for any reason; and**
- (iv) the Terms of Reference for the Committee is changed to include the established oversight and monitoring of the Complaints and Information Governance processes.**

c) approved the amendments to the website procedure to be used when dealing with complaints, set out at Appendix 2 with the amendments to the retention of notices and to reflect the Code and the adopted arrangements, subject to the committee's recommendation that notices are retained for a period of 6 Years.

64. WORK PROGRAMME

The committee's updated work programme was presented, the Head of Strategic Finance explained to the committee that the "External Audit Progress Report" was a legacy item and was removed from the work programme.

RESOLVED

That subject to the amendment noted, the updated work programme be agreed.

65. DATE OF NEXT MEETING

Tuesday, 30 January 2024, 2pm.

The meeting ended 3:26pm.

Chairperson