



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### GOVERNANCE & AUDIT COMMITTEE

**15<sup>th</sup> February 2023**

**Annex 1, to appendix 1 of this report - Not for publication pursuant to Regulation 5(2) & (5) of Statutory Instrument 2001 No. 2290 and Paragraphs 12 and 13 of Part 4 of Schedule 12A to the Local Government Act 1972. Pursuant also to Paragraph 21 of the Schedule, and in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.**

**Report of the Chief Accountant Technical & Governance (Head of Internal Audit) – Diane Mulligan**

#### **Matters for Information**

**Wards Affected:** All Wards

#### **Update Report - Independent External Governance Review**

##### **1. Purpose of the Report**

The purpose of this report is to provide details of progress made in relation to agreed actions to be undertaken following receipt of an Independent External Reviewers' report. The review was commissioned by the Chief Executive and related to aspects of the Council's governance arrangements.

## **2. Executive Summary**

Following a review undertaken by the Audit Manager I can confirm that all of the agreed actions contained within the External Independent Reviewers' report have been actioned.

## **3. Background**

The Chief Executive presented a report to the Council's then Audit Committee on 15<sup>th</sup> March 2021 in which she advised that she had commissioned an independent, external review of certain governance arrangements following an edited recording of the former Leader of Council which had been made public.

Following completion of the external, independent review the Chief Executive presented a further report to Governance & Audit Committee on 24<sup>th</sup> June 2021 (attached as appendix 2 to this report) which detailed the findings of the review and an agreed action plan.

Included within the agreed action plan was a recommendation that Internal Audit periodically audit implementation of the action plan and the revised governance arrangements arising from the review. The Audit Manager has undertaken this work and this report provides details of the findings of the reviews undertaken.

## **4. Actions taken to address the recommendations made by the external, independent reviewers & Internal Audit review findings**

### **Recommendation 1**

Develop a comprehensive transparent evidence based prioritisation matrix based on agreed, objective criteria against which all competing projects can be compared, and decisions regarding their adoption or rejection clearly demonstrated. It is for the Council to determine the criteria for inclusion or non-inclusion (for example in the case of emergencies and the exercising of judgement by officers) of projects

within this process along with the judgement criteria upon which decisions are made.

#### Findings

This recommendation has been completed.

A report detailing the revised methodology for determining how capital works will be prioritised within available budgets was presented to Cabinet in December 2021.

#### **Recommendation 2**

Develop a Terms of Reference for the CPSG that clearly defines their purpose and delineates their role in the governance and decision making process.

#### Findings

This recommendation has been completed.

A terms of reference for the Capital Programme Steering Group has been developed and formed part of the report to Cabinet in December 2021. Following attendance at Capital Programme Steering Group meetings and reviewing the minutes produced the Audit Manager is content that the terms of reference as reported to Cabinet is being adhered to and all members of the group are aware of the group's purpose and terms of reference.

#### **Recommendation 3**

It is for the Council to determine the extent to which formal reports are required taking into account the scale of the project

#### Findings

This recommendation is covered off via the implementation of recommendations 1 and 2.

#### **Recommendation 4**

Ensure that the reasons for decisions are recorded in the minutes of meetings.

### Findings

The Audit Manager has had sight of all of the Capital Programme Steering Group minutes and can confirm that the minutes provide enough detail to enable the reader to determine actions agreed. Copies of the minutes are also provided to the Corporate Directors Group chaired by the Chief Executive for information.

The Audit Manager has also attended a Members' Surgery held in December 2022. The information provided to members at the surgery attended and discussions held were in the view of the Audit Manager both appropriate and professional and consistent with the process as agreed by Cabinet in December 2021.

### **Recommendation 5**

It is the view of the authors that this report and all the documentation that formed the evidence base should be forwarded to the Ombudsman to assist in his determination.

### Findings

All documentation has been provided by the Chief Executive to both the Ombudsman and the Auditor General.

### **Recommendation 6**

While the Council can take overall assurance regarding its systems and processes it does need to ensure that: meetings where decisions are made, which have a significant impact on local citizens, are accurately recorded in the interests of openness and transparency.

### Findings

This recommendation has been completed.

The Audit Manager has had sight of a report taken by the Chief Executive to Cabinet Members Briefing (CMB) in August 2021. The report contained a terms of reference, co-produced by the Chief Executive and the Head of Legal and Democratic Services, for these briefings, the terms of reference provides clarity on the function of CMB and make clear that it is not a decision making body.

The Head of Legal & Democratic Services confirmed that training has been undertaken by an independent nationally recognised governance lawyer and specifically focussed on the relationship between officers and members. This training was delivered firstly between September 2021 and November 2021 to Chief Officers and Accountable Managers. A similar session was also undertaken with Cabinet Members in September 2021. A further session was undertaken with Cabinet Members in July 22 and to all elected members in October 2022.

In addition to the above training the Head of Legal and Democratic Services also delivered sessions during June and July 2022 covering member/officer protocols with all managers and supervisors within the Environment Directorate. Similar sessions have been carried out with Education Directorate Officers, Democratic Services Officers and Governance Officers and refresher training will take place on a regular basis.

### **Recommendation 7**

The Council needs to: Ensure that decisions to commit public funds and the rationale for these decisions, are accurately recorded.

#### **Findings**

See recommendation 6 in relation to training.

A number of reports have been taken to the relevant Cabinet Boards regarding the future of Cefn Coed Museum.

### **Recommendation 8**

This recommendation mirrors recommendation 5.

### **Recommendation 9**

An important element of the investigation brief was to examine the member/officer protocol which forms part of the Authority's constitution. The protocol follows a standard format and contains all of the elements that would be expected. In that sense it is clearly fit for purpose. As with all such protocols it is behaviour dependent and relies on all parties being aware of its specific content and embedding the principles in day-to-day activity. The Authority has undertaken member

training as would be expected and is undertaking refresher awareness training in line with good practice

**Findings**

See findings under recommendation 6.

**Recommendation 10**

The Auditor General has recommended that the Internal Audit Service be asked to follow up the implementation of the action plan with some assurance work when changes have had time to bed in.

**Findings**

The work undertaken by the Audit Manager and this report to members fulfils the recommendation made.

**5. Conclusion**

All of the agreed recommendations have been implemented. The Audit Manager will continue to attend Capital Programme Steering Group on an ad hoc basis and will receive copies of all minutes of the meeting to enable ongoing review of compliance with the revised terms of reference.

Should there be any slippage in the compliance with the agreed recommendations the Audit Manager will inform the Chief Executive and report back to this committee.

**6. Financial Impacts**

No implications.

**7. Integrated Impact Assessment**

There is no requirement to undertake an Integrated Impact Assessment as this report is for monitoring/information purposes.

## **8. Valley Communities Impacts**

No implications.

## **9. Workforce Impacts**

No implications.

## **10. Legal Impacts**

No implications.

## **11. Risk Management Impacts**

The work of Internal Audit is key in relation to ensuring compliance with internal controls. This work forms part of the Council's overall risk management arrangements.

## **12. Consultation**

There is no requirement for external consultation on this item.

## **13. Recommendation**

That members note the content of the reports and appendices

## **14. Appendices**

Appendix 1 – Chief Executive's Report to Audit Committee 15<sup>th</sup> March 2021.

Appendix 2 – Chief Executive's Report to Audit Committee 24<sup>th</sup> June 2021.

Annex 1 – Private report in addition to Appendix 1.

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## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### Audit Committee

**15<sup>th</sup> March 2021**

### **Report of the Chief Executive**

#### **Matter for Information**

#### **Wards Affected:**

All

#### **Report Title**

External Independent Governance Review

#### **Purpose of the Report:**

To present the terms of reference of the external, independent review of governance arrangements initiated week commencing 8<sup>th</sup> March 2021.

#### **Background:**

On Friday, March 8<sup>th</sup> 2021, I was advised by the former Leader of Council that an audio tape had been released on social media featuring an edited account of him speaking at a private Labour Party meeting.

I was able to access the audio recording that evening. Having listened to it and having consulted with the Council's Monitoring Officer, it was clear that action was needed.

On March 9<sup>th</sup> 2021, the former Leader of Council advised me and the Monitoring Officer that he had made a self-referral to the Public Services Ombudsman. We have both received a copy of that self-referral and are satisfied that all relevant matters have been included. We were also advised that the former Leader would be standing back from that role whilst the Ombudsman carries out his enquiries into the matters.

On 9<sup>th</sup> and 10<sup>th</sup> of March I referred the matter to South Wales Police and the Auditor General respectively. Late evening, 10<sup>th</sup> March 2021 I briefed the two Opposition Group leaders, the Deputy Leader of Council and the Chair of the Audit Committee on information to date, the actions I had taken and was proposing to take.

Investigation of the matter is now for the Public Services Ombudsman to deal with and it will be for him to liaise with other agencies as may be necessary.

Given the nature of the comments on the tape and the public reaction to this incident, I decided to commission an external, independent review into systems and processes of governance. The terms of reference for that review are attached for the information of the Committee. The review will be led by Mr Rod Alcott, a former senior manager of the Wales Audit Office and he will be supported by Mr Jack Straw, former Chief Executive of the City and County of Swansea.

The terms of reference set are attached at Appendix 1. The report detailing the findings of this review and any recommendations will be presented to the Audit Committee in due course.

**Financial Impacts:**

Fees will be payable in respect of this review. The costs will be met from the contingency in this year's budget.

**Integrated Impact Assessment:**

There is no requirement for an IIA as this is an information item.

**Valleys Communities Impacts:**

There are no specific impacts for valley communities as this will be a review of corporate arrangements.

**Workforce Impacts:**

There are no specific workforce impacts. The Council's Audit Manager will help facilitate access to documents, information and people.

**Legal Impacts:**

There is no specific legal requirement to undertake this review.

**Risk Management Impacts:**

The Council has a clear framework in place to support its decision making. The Annual Governance Statement describes those arrangements and identifies, from assurance work undertaken each year, where governance arrangements might benefit from some strengthening. The Audit Committee has a role in overseeing that work. Given the nature of this incident, it is considered prudent to take an additional assurance about the current systems and processes that support decisions taken on school reorganisation; capital investment planning more broadly; and the protocol that governs member-officer relationships.

This incident has attracted considerable public interest. This reflects on the reputation of the council. It is important that this review is carried out by credible people external to the council so that there is public confidence in the review, its findings and any recommendations.

As mentioned earlier in the paper, the Public Services Ombudsman will consider the tape at the centre of this incident. I have liaised with the Public Services Ombudsman, the Auditor General and South Wales Police to ensure the terms of reference I have set for this review does not hinder their considerations of the matter.

**Consultation:**

There is no requirement for external consultation on this item, however, I have consulted with the agencies listed in the body of this report in setting the terms of reference. I have also consulted with the two opposition group leaders, the Deputy Leader of Council and the Chair of the Audit Committee.

**Recommendations:**

That the Audit Committee receives the terms of reference for the external, independent review and notes that the report setting out the findings of the review will be presented to the Audit Committee in due course.

**Appendices:**

Appendix 1 – Terms of Reference – External Independent Governance Review

**List of Background Papers:**

None

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## APPENDIX 1

### **Terms of Reference External Independent Governance Review**

#### **Objective:**

To provide the Chief Executive and the Council's Governance and Audit Committee with an independent, external assurance in relation to:

- The Council's current systems and processes surrounding the development of school reorganisation proposals;
- The Council's current systems and processes in relation to the programming of highways works and capital investment projects; and
- The appropriateness of the current Member-Officer Protocol contained within the Council's Constitution.

A written report, setting out your findings and any recommendations you feel need to be considered, is required. You may feel it appropriate to issue an interim report.

The report will be shared with the Council's Governance and Audit Committee and the Council's external auditors.

The Council will make available any documentation, e mails or other information that is necessary for sufficient assurance to be taken and will also expect officers and councillors to co-operate with any reasonable request for interviews that will enable the commission to be carried out.

**Timescale:** This review will commence week commencing 8<sup>th</sup> March 2021

**Rod Alcott** is a former senior manager at the Wales Audit Office with extensive experience of undertaking governance audits. He is currently supporting a number of authorities across Wales with their preparations to meet new legislative self-assessment requirements.

**Jack Straw** is the former Chief executive of the City and County of Swansea, he has held senior positions in Welsh Local Government and NHS Wales for over 25 years. Jack has recently chaired an Oversight Panel relating to the NHS in North Wales and the Powys County Council improvement board.