

Audit and Standards Committee

19 November 2018



Time and venue:

10.00 am in the Telscombe Room - Southover House, Lewes

Membership:

Councillor Mike Chartier (Chair); Councillors Stephen Catlin, Johnny Denis, Nigel Enever, Stephen Gauntlett, Andy Loraine and Julian Peterson

Quorum: 4

Published: Thursday, 8 November 2018

Agenda

1 Minutes (Pages 1 - 6)

To confirm and sign the minutes of the previous meeting held on 24 September 2018.

2 Apologies for absence/declaration of substitute members

3 Declarations of interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

5 Written questions from councillors

To deal with written questions from councillors pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution).

6 Outcome of Code of Conduct Investigation at Peacehaven Town Council (Pages 7 - 54)

Report of Monitoring Officer/Assistant Director of Legal and Democratic Services.

7 Interim Report on the Council's Systems of Internal Control 2018/19 (Pages 55 - 66)

Report of Head of Audit and Counter Fraud.

8 Internal Audit Key Performance Indicators (KPIs) (Pages 67 - 72)

Report of Head of Audit and Counter Fraud.

9 Lewes District Council Grants Report 2016/17 (Pages 73 - 88)

Report of BDO.

10 Treasury Management

Report of Deputy Chief Executive to follow.

11 Date of next meeting

To note that the next meeting of the Audit and Standards Committee is scheduled to be held on Monday, 21 January 2019 in the Ditchling Room, Southover House, Southover Road, Lewes, BN7 1AB, commencing at 10:00am.

Information for the public

Accessibility: Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

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Public participation: Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Information for councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address: A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

A member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

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Audit and Standards Committee

Minutes of meeting held in the Ditchling Room, Southover House, Southover Road, Lewes, on 24 September 2018 at 10.00 am

Present:

Councillor Mike Chartier (Chair)

Councillors Stephen Catlin, Johnny Denis, Stephen Gauntlett and Julian Peterson

Officers in attendance:

Homira Javadi (Chief Finance Officer), Pauline Adams (Head of Finance), David Heath (Head of Audit and Counter Fraud), Jennifer Norman (Committee Officer) and Jazmin Victory (Committee Officer)

Also in attendance:

Janine Combrink, Engagement Lead, BDO

15 Minutes

The minutes of the meeting held on 17 July 2018 were submitted and approved, and the Chair was authorised to sign them as a correct record.

16 Apologies for absence/declaration of substitute members

An apology had been received from Councillor Nigel Enever.

17 Declarations of interest

There were none.

18 Written questions from councillors

There were none.

19 Annual report on the establishment and maintenance of a Register of Interests 2017/2018

The Committee received the report which confirmed that the Register of Interests was being maintained in accordance with the law and Council's constitution, and which set out the number of standards complaints about

councillor conduct received and considered by the Council's Monitoring Officer during the municipal year 2017/2018 (as shown in appendix 1 of the report).

Resolved:

That the report be noted.

Reason:

The remit of the Audit and Standards Committee includes a requirement to consider the Monitoring Officer's annual report on the establishment and maintenance of a Register of Interests of members and co-opted members of the Council. The Monitoring Officer has requested that the annual report submitted to the Committee also outlines the number and nature of Standards complaints received in the municipal year 2017/2018.

20 Interim report on the Council's Systems of Internal Control 2018/19

The Committee received the report which informed councillors on the adequacy and effectiveness of the Council's systems of internal control during the first five months of 2018/2019, and which summarised the work on which that opinion was based.

The Head of Audit and Counter Fraud (HACF) explained that in terms of audit work, the housing benefit subsidy was a key project which required a considerable amount of resources and work by the Council and its external auditor, BDO. The HACF thanked BDO for its hard work on the project.

The HACF brought the Committee's attention to section 6 of the report which detailed Lewes District Council's (LDC) Peer Review which was carried out by the Principal Auditor at Chichester District Council (CDC). The overall results of the review were that the LDC internal audit services generally conformed to the standards set by the Public Sector Internal Audit Standards (PSIAS) 2017.

The HACF highlighted that during the Peer Review by CDC it was brought to his attention that the PSIAS requirements require that the HACF's appraisals should be completed by the Chair of the Audit and Standards Committee, in order to be in compliance with the current standards. The HACF explained that his appraisals were currently completed by his line manager and that other authorities maintained a similar practice. The Chair agreed that the HACF's line manager should be in charge of completing the appraisals.

The Chair wished to highlight the work by the HACF, referring to the details set out in section 7.3 of the report. He thanked the HACF for his passion regarding council housing and remarked that the Committee was delighted with the HACF's efforts.

The Committee referred to the first paragraph on page 27 of the agenda pack and queried if the reasons were noted at the time as to why some properties

were subject to a peppercorn or nominal rental value and why some properties were not. The HACF responded that it was an observation that the team picked up on and that he would follow up and make the reasons available to members at a future meeting of the Committee.

The Committee further queried if the peppercorn rentals referred to in the first paragraph on page 27 of the agenda pack were commercial or residential. The HACF replied that the peppercorn rentals were commercial.

Resolved:

That it be noted that the overall standards of internal control during the first five months of 2018/19, as shown in paragraph 2 of the report, were generally satisfactory.

Reason:

The remit of the Audit and Standards Committee includes the duties to agree an annual audit plan and keep it under review, and to keep under review the probity and effectiveness of internal controls, both financial and operational, including the Council's arrangements for identifying and managing risk.

21 Lewes District Council - Update of the Strategic Risk Register

The Committee considered the report which provided an update on the Strategic Risk Register while taking into account the changes made by the Corporate Management Team (CMT).

The Committee highlighted that there had been suggestions that LDC would be better off selling assets, but it agreed that the Council was better served with regular income resulting from annual rents. The Chair further highlighted that the Council currently did not have a policy in place but the Committee could in future draw Cabinet's attention to where the best return would be.

Resolved:

That the report be noted.

Reason:

The Council is committed to proper risk management and to regularly updating the Audit and Standards Committee with regard to the Strategic Risk Register.

22 Audit completion report

The Committee received the report which summarised the results of completing the planned audit approach for the year ended 31 March 2018, specific audit findings and areas requiring further discussion and/or the attention of the Committee.

BDO explained that at the time of drafting the report, there were a number of areas in which the work was outstanding, due to the external valuer not replying in advance of the report deadline. BDO further explained that it was seeing significant differences within the audit completion report, but that the audit could not be completed until the valuer contacted BDO.

The Chair highlighted that BDO and the Council had done everything possible to have the report completed in advance of the deadline and that the fault was with the external valuer and its lack of engagement in completing the report. The Committee agreed it was a serious and significant failure by the external valuer.

The Committee was concerned that the Council may incur unnecessary costs if the list provided to the valuer included properties that did not need to be revalued, as detailed on page 74 of the agenda pack. The Head of Finance explained that prior to the next audit completion report, the department would write to every service manager within the Council to enquire what assets were sold the previous year. The Chair requested that in future any asset which the Council acquired should be recorded.

BDO highlighted that the Council was projected to maintain a savings of £441k savings each year for the next four years and as a result it was satisfied that the Council had adequate arrangements to remain financially sustainable in the near future. The Committee was encouraged by the news.

Resolved:

That the report be noted.

Reason:

At the completion stage of the audit it is essential that the Council's external auditors engage with the Audit and Standards Committee on the results of audit work on key risk areas, including significant estimates and judgements made by management, critical accounting policies, any significant deficiencies in internal controls, and the presentation and disclosure in the financial statements.

23 Statement of Accounts 2017/18

The Committee considered the report which presented the Statement of Accounts 2017/2018 for approval, following audit by the Council's external auditors, BDO.

The Head of Finance reminded the Committee that there had been problems due to the late valuation data being received and that the accounts were not submitted to BDO until 25 June 2018. Following discussions with the Audit Manager, it was agreed to delay the start of the audit until August. The audit commenced on 13 August 2018 and was still underway at the time the report was published.

The Chair proposed and the Committee agreed that it was dismayed at the late valuation of the report, and suggested that Cabinet look at the key issues arising from the audit, as detailed in section 4 on page 86 to 87 of the agenda pack.

Resolved:

1. That the final accounts for 2017/18 be approved;
2. That the unadjusted audit differences identified by External Audit be noted;
3. That the “significant deficiency” in the Council’s control environment and the actions which were being taken to mitigate this for the future, be noted; and
4. That it be agreed to delegate authority to the Chief Finance Officer to make non material amendments to the Statement of Accounts 2017/18 prior to final publication.

Recommended:

That Cabinet note the Committee’s concerns regarding the Council’s late receipt of valuation data from the external valuation office in relation to the Statement of Accounts 2017/18.

Reason:

The Accounts and Audit Regulations 2015 require the Chief Finance Officer and councillors to certify and approve an audited set of accounts for publication.

24 Treasury Management

The Committee considered the report which presented details of recent Treasury Management activity between 1 March 2018 and 31 August 2018, and the Annual Treasury Management report 2017/2018.

The Head of Finance reminded the Committee that the report was suspended from consideration due to late circulation prior to the previous meeting of the Committee in July 2018. She highlighted that appendix 1 - the Annual Treasury Management Report 2017/2018 – had not been attached to the current report, therefore recommendation 2 listed on page 205 of the agenda pack should not be considered until the next meeting of the Committee in November 2018.

The Chair requested that officers provide an overview of the economy in future reports, as the information set out in paragraph 2.9 of the report was not sufficient in detail.

The Committee requested that the daily movement as shown in the graph on page 208 of the report be discontinued and that quarterly movement be shown in differentiating colours, as the current graph was difficult to read.

The Committee queried if statistics regarding borrowing - including from whom and how much the Council is paying - be included in future reports. The Head of Finance agreed that the requested information would be made available to the Committee in future reports.

Resolved:

That it be confirmed to Cabinet that Treasury Management activity between 1 March 2018 and 31 August 2018 had been in accordance with the approved Treasury Strategies for that period, as set out in the report.

Reasons:

The Council's approved Treasury Strategy Statement requires the Audit and Standards Committee to review details of Treasury Strategy transactions against the criteria set out in the Strategy and make observations to Cabinet as appropriate.

The Treasury Strategy Statement also requires the Audit and Standards Committee to review a formal summary report after the year end before it is considered by Council, in accordance with best practice and guidance issued by the Chartered Institute of Public Finance and Accountancy.

25 Date of next meeting

Resolved:

That the next meeting of the Audit and Standards Committee that is scheduled to be held on Monday, 19 November 2018 in the Telscombe Room, Southover House, Southover Road, Lewes, BN7 1AB, commencing at 10:00am, be noted.

The meeting ended at 10.56 am.

Councillor Mike Chartier (Chair)

Agenda Item 6

Report to: Audit and Standards Committee

Date: 19 November 2018

Title: Proposed Resolution of Alleged Failures to Comply with Peacehaven Town Council's Code of Conduct for Members

Report of: Monitoring Officer

Ward(s): Peacehaven West, Peacehaven East, Peacehaven North

Purpose of report: To seek the Committee's endorsement of the proposed resolution of the code of conduct allegations

Officer recommendation(s):

- 1) That the Committee endorse the Monitoring Officer's proposed informal resolution, set out in paragraph 4.1, of the complainants' code of conduct allegations.
- 2) That, subject to making the endorsement above, the Committee seek updates from the Peacehaven Town Manager as specified in paragraph 5.2.

Reasons for recommendations: To deal with the investigation outcome in the most effective manner

Contact Officer: Name: Catherine Knight
Post title: Monitoring Officer
E-mail: catherine.knight@lewes-eastbourne.gov.uk
Telephone number: (01323) 415864

1 Introduction

1.1 Earlier this year the Town Manager of Peacehaven Town Council ('the Town Council') submitted a complaint to Lewes District Council's Monitoring Officer ('MO') alleging that Councillors Brian Gosling, Jean Farmiloe and Jackie Harrison-Hicks, all Town Council members, had failed to comply with the Town Council's Code of Conduct for Members.

1.2 Councillor Rachel Coles, also of Peacehaven Town Council, made a related complaint to the MO about the conduct of Cllr Brian Gosling.

2 Initial Assessment

2.1 In accordance with the District Council's arrangements for dealing with complaints about councillor conduct, the MO carried out a preliminary assessment to decide whether the allegations warranted formal investigation. In consultation with the Independent Person, Vic Kempner, it was clear to the MO that the nature and scope of the allegations raised multiple and potentially serious Code of Conduct issues. Accordingly, the matter would be subject to full

investigation.

2.2 The scale of the allegations justified the appointment of an external investigator. After obtaining three quotes, the MO commissioned ch&i associates to carry out the investigation on her behalf. One of the reasons for selecting ch&i was their prior knowledge of the Town Council, having carried out a previous code of conduct investigation into a different member there in 2016/17.

3 Investigation outcome

3.1 The investigator's full report is set out at Appendix 1.

3.2 The investigation established that the majority of the allegations made against Councillors Gosling, Farmiloe and Harrison-Hicks are supported by the evidence and, to varying degrees, represent likely breaches of the Town Council's Code of Conduct.

3.3 The District Council's complaints procedure requires that if the investigation report concludes that there is evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and will then either send the matter for a hearing by the Standards Panel or, after consulting the Independent Person, seek informal resolution.

3.4 The investigation identified wide ranging Code of Conduct issues, linked mainly to underlying problems concerning (i) longstanding personal conflict and poor working relations between certain elected members and Town Council officers; and (ii) a lack of understanding of the norms for officer/member relations and their respective powers and responsibilities.

3.5 Because these issues point to wider issues of governance affecting the entire Town Council, and because two of the three councillors complained of have recently resigned, the MO agrees with the investigation officer's view that the most effective resolution would consist not of a Standards Panel determining the conduct of individual members but an action plan adopted by the Town Council to address the governance matters identified.

3.6 A further justification for this approach is the very limited range of sanctions that a Standards Panel could impose on individual members found to have breached the Code of Conduct.

3.7 The Independent Person supports this method of resolving of the complaints submitted by the Town Manager and Councillor Coles.

4 Proposed resolution

4.1 The MO proposes that Peacehaven Town Council be recommended to adopt an action plan comprising the measures set out at paragraph 6.17 of the investigation report. The purpose and benefits of the action plan are detailed in paragraphs 6.18 and 6.19.

5 Recommendations

5.1 It is recommended that Audit & Standards Committee endorse the MO's proposed informal resolution of the Code of Conduct complaints in the manner described in paragraph 4.1 above.

5.2 It is further recommended, in accordance with paragraph 6.20 of the investigation report, that the Committee seek an update from the Town Manager after 3 and then 6 months of commencing the action plan, to assess the success of otherwise of its implementation.

6 Financial appraisal

The recommendations to this report, if endorsed, involve no significant cost on the part of the District Council, as it would not be necessary to convene a hearing of the Standards Panel. The recommended action plan would involve some expense on the part of Peacehaven Town Council depending on their chosen method of implementation.

7 Legal implications

The District Council's arrangements for investigating and deciding on allegations of a failure to comply with Peacehaven Town Council's Code of Conduct meet the requirements of section 28(6) of the Localism Act 2011.

Lawyer consulted 26.10.18. Legal ref: 007248-LDC-OD

8 Risk management implications

If the Town Council does not implement the recommended action plan within a reasonable timescale, the governance problems identified in the investigation report may persist, leading to continuing difficulties between members and officers, and a loss of confidence in the council's reputation among Peacehaven residents and businesses..

9 Equality analysis

There are no equality issues arising directly from this report.

10 Appendices

Appendix 1 – Investigation Report by ch&i associates

11 Background paper

The background paper used in compiling this report was as follows:

Arrangements for dealing with complaints about councillor conduct
<https://www.lewes-eastbourne.gov.uk/resources/assets/inline/full/0/261279.pdf>

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**Investigation into a complaint
against**

**Councillor Brian Gosling,
Councillor Jean Farmiloe
and
Councillor Jackie Harrison-Hicks
of
Peacehaven Town Council**

A report for the Monitoring Officer of
Lewes District Council

18 October 2018

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1 Executive Summary

- 1.1 ch&i associates was appointed by the Monitoring Officer at Lewes District Council (the Council) to investigate a complaint about the conduct of Councillor Brian Gosling, Councillor Jean Farmiloe and Councillor Jackie Harrison-Hicks in their capacity as members of Peacehaven Town Council (the Town Council)¹.

Scope and focus of the investigation

- 1.2 Ms Claire Lacey, Peacehaven's Town Manager, submitted a complaint to the District Council alleging that Councillors Brian Gosling, Jean Farmiloe and Jackie Harrison-Hicks had all repeatedly failed to comply with the Town Council's Code of Conduct (the Code).
- 1.3 Ms Lacey alleged that Councillor Brian Gosling:
- i. contacted both internal and external auditors about the Town Council's annual return on **6 June 2017** without the necessary authority from the Town Council;
 - ii. failed to comply with the Town Council's internal procedures for dealing with a complaint about her as Town Manager and discussed confidential Council matters in relation to that complaint with an HR company without permission;
 - iii. instructed an external HR company to investigate a complaint about her without the necessary authority. It is alleged that this was part of an attempt to bully the Town Manager out of her role;
 - iv. breached Data Protection legislation and Town Council procedures by circulating the HR report without the authority of either her or the Town Council;
 - v. failed to treat Ms Lacey with respect and bullied her during an altercation in her office on **23 March 2018**;
 - vi. improperly used his position by arranging the hand delivery of an HR report relating to a complaint against the Town Manager to all members of the Town Council immediately prior to an Extra-Ordinary Town Council meeting, at which a complaint against his wife was to be discussed; and
 - vii. discussed confidential Town Council business outside of Council meetings as part of a conspiracy to force the Town Manager from her job.

¹ During the course of this investigation Councillor Gosling and Councillor Farmiloe resigned their positions on the Town Council. For the purposes of this report however I will continue to refer to them as councillors because it was in this capacity that I am considering their conduct. In her comments on the draft report Councillor Farmiloe wanted it noted that her resignation had nothing to do with this complaint; she and her husband resigned due to his ill health.

1.4 Ms Lacey alleged that Councillor Jean Farmiloe:

- i. caused a breakdown in the working relationship between certain councillors and officers while Mayor of the Town Council **May 2016 – April 2017**;
- ii. brought the Council into disrepute by calling another councillor a [REDACTED] in front of members of the public during a Remembrance Day parade;
- iii. enabled and encouraged Councillor Gosling to make unauthorised contact with the internal auditor on **6 June 2017**;
- iv. discussed confidential HR matters about the Town Manager with an external HR company and others; and
- v. discussed confidential Town Council business outside of Council meetings as part of a conspiracy to force the Town Manager from her job.

1.5 Ms Lacey alleged that Councillor Jackie Harrison-Hicks:

- i. contacted a leaseholder claiming to act on behalf of the Town Council without the necessary authority from the Town Council and then falsified information in relation to that lease with regards to a broken immersion heater, possible change of tenant and charges incurred by the leaseholder;
- ii. contacted and instructed the Town Council's IT Contractor without the necessary authority from the Town Council;
- iii. sent the Town Manager inappropriate emails;
- iv. discussed confidential Town Council matters with outside bodies and individuals; these included disrespectful comments about the Town Manager;
- v. upset and bullied other members of the Council;
- vi. misled and misadvised the Chair of the Council to distribute a confidential HR report to all members of the Council; and
- vii. discussed confidential Town Council business outside of Council meetings as part of a conspiracy to force the Town Manager from her job.

- 1.6 Councillor Rachel Coles, a member of the Town Council, also submitted a complaint about the conduct of Councillor Brian Gosling. Councillor Coles alleged that Councillor Gosling failed to comply with the Code in the way that he dealt with a complaint that had been made about the conduct of the Town Manager.

Recommended finding

- 1.7 My approach in this case has been to equip the Council to determine the allegations through any of the routes open to it, namely:
- a. The member *was not* acting in councillor capacity, and therefore the code was not engaged and the member did not breach it;
 - b. The member *was* acting in member capacity, but did not through their conduct breach any Code paragraph;
 - c. The member *was* acting in member capacity and breached the Code.
- 1.8 My recommended finding is that the Code of Conduct was engaged and that there is sufficient evidence of a failure to comply with the Code on the part of all those complained about as to make it necessary for further action to be taken. The intention of the Code is to ensure that the conduct of public life at the local government level does not fall below a minimum level which engenders public confidence in democracy. The investigation has established that the majority of the allegations made against Councillor Gosling, Farmiloe and Harrison-Hicks are supported by the evidence and to varying degrees, represent likely breaches of that Code. Perhaps of most concern is that the facts of this case suggest that those referred to in the complaint, maybe in conjunction with others, appear to have been involved in a concerted attempt to undermine and potentially force the removal of the Claire Lacey from her position as Town Manager.
- 1.9 Despite having concluded the above, I do not consider that pursuing this matter to a hearing would resolve the underlying issues, assist the smooth running of the Council or represent a meaningful use of public resources. The District Council's "Arrangements for dealing with complaints about councillor conduct" states that if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.
- 1.10 The concerns detailed above are wide ranging and I am not sure that the implementation of any of the limited sanctions on offer will particularly assist the Town Council in resolving them, particularly as two of the councillors have now resigned. I consider there to be evidence of longstanding personal conflict and poor working relations between certain elected members and Town Council officers. In addition, I have detected a less than full understanding of the norms

for officer/member relations and their respective powers and responsibilities. There is no doubt that this is having a detrimental effect on the individuals involved and the functionality of the Town Council.

1.11 In order to address these concerns, it is my view that the Monitoring Officer seek an informal resolution by recommending that the Town Council implement an action plan that involves making the necessary training, conciliation and mentoring available to all Town Council members and officers. These problems are affecting the entire Council and therefore it appears most appropriate that all members and officers are involved in their resolution.

1.12 In my view the plan should include the following:

- The appointment of an external person / consultancy with the relevant professional skills to review the Town Council's processes and procedures. This should include a review of the role of the Employment Sub-Committee and how complaints against senior officers should be dealt with in the future.
- The implementation of an explicit, pragmatic and rational Scheme of Delegation that also sets out how any breaches of the Scheme should be dealt with appropriately and expeditiously. A good Scheme of Delegation will facilitate more efficient processes for conducting council business, will improve openness and accountability and will streamline decision-making and action for the benefit of residents.
- The training / mentoring of officers and councillors to identify and rectify any weakness in their understanding of the Town Council's procedures and the Code. The Town Council might want to take the opportunity to review their current Code as in my view a Code that consists solely of the Nolan principles can lack the detail necessary to assist members in understanding their responsibilities.
- Training and guidance on conflict resolution with a view to improving working relations between elected members and Town Council officers through more effective communication and improved conduct. As part of this process I would recommend that all parties work together on reviewing their Member/Officer protocol to ensure that it is fully understood and ingrains agreed parameters.

1.13 The purpose of the action plan is three-fold. Firstly, a review of the Town Council's governance should give all councillors and officers confidence that the right tools are in place to allow the Town Council to operate effectively. Secondly, the training and guidance provided should seek to address any weaknesses in an individual's understanding of the Council's procedures; its administrative requirements; its standing orders, the Code of Conduct and local government practice more generally. It should also seek to improve the skills of members in understanding the extent and limits of their respective roles, and in working together with officers for the benefit of the community. Thirdly, the training on conflict resolution should seek to improve the skills of members and

the clerk in more effectively dealing with and resolving conflict. It is hoped that this will avoid the Council's time and resources being wasted on personal conflicts and arguments.

- 1.14 It is hoped that by implementing this action plan any personal conflicts will be resolved, acceptable standards of behaviour will be established, and the Town Council will run in a proper manner that will command the respect of the community. In considering whether this decision might result in unfairness either to the complainants or the respective councillors who were complained about, I have prioritised the overriding need to improve the functioning of the Town Council. The decision to take informal action should in no way lessen the gravity of the serious conduct issues highlighted in this report. Based on the information provided to me though I firmly believe that this recommendation is necessary to ensure that the Council functions effectively in the future and that this constructive process is in the public interest, and therefore in the interests of the complainants and members themselves.
- 1.15 A copy of this report should be provided to the District Council's Audit and Standards Committee. I would recommend that the Committee seek an update from the Town Manager after 3 and then 6 months to assess the success or otherwise of the action plan.

2 Councillors' official details

- 2.1 Councillor Brian Gosling was elected to the Town Council in May 2015 as a member of the Conservative Group. Councillor Gosling served as Mayor of Peacehaven from May 2017-18. Councillor Gosling resigned his position on the Town Council during the course of this investigation.
- 2.2 Councillor Jean Farmiloe was elected to the Town Council in May 2015 as a member of the Conservative Group. Councillor Farmiloe served as Mayor of Peacehaven from May 2016-17. Councillor Farmiloe resigned her position on the Town Council during the course of this investigation.
- 2.3 Councillor Jackie Harrison-Hicks was elected to the Town Council in May 2003 as a member of the Conservative Group. Councillor Harrison-Hicks has served as Mayor of Peacehaven since May 2018. Councillor Harrison-Hicks is also a member of Lewes District Council.

3 The relevant legislation & protocols

Localism Act 2011

- 3.1 By section 27(1) of the Localism Act 2011 (the Act) a "relevant authority" is placed under a statutory duty to "promote and maintain high standards of conduct by members and co-opted members of the authority".

- 3.2 By section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity”.
- 3.3 Under section 28(1) of the Act a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with prescribed principles of standards in public life – the so called “Nolan principles”.
- 3.4 The intention of the legislation is to ensure that the conduct of public life in local government does not fall below a minimum level which engenders public confidence in democracy, as was recognised by Beatson J, as he then was, in *R (Calver) v The Adjudication Panel for Wales* [2012] EWHC 1172 (Admin) when he held that there was a clear public interest in maintaining confidence in local government while at the same time bearing in mind the importance of freedom of political expression or speech in the political sphere.
- 3.5 Under 28(6) of the Act, Local Authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision by the appointment of the authority of at least one “independent person” whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.
- 3.6 Section 28(11) of the Act provides that if a relevant authority finds that a member or a co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.

Peacehaven Town Council’s Code of Conduct

- 3.7 Under Section 27(2) of the Localism Act the Town Council established a Code of Conduct for members (the Code).
- 3.8 The Code adopted by the Council states:

As a member or co-opted member of **Peacehaven Town Council** I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

The Seven Principles of Public Life

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity

2. Members should not place themselves in situations where integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.

Objectivity

3. Members should make decisions in accordance with the law and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Honesty

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour. Members should declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

4 The investigation

- 4.1 This investigation was conducted by Alex Oram² and Mark Hedges of ch&i associates, on behalf of the District Council's Monitoring Officer. Alex is a director of ch&i associates, a company with a successful track record of conducting complex investigations, assessments and case reviews within the regulatory, charity, NHS and local government sectors. Alex has been conducting member conduct investigations since 2003. He was previously employed by Standards for England as a principal investigator responsible for conducting many of their most complex, politically sensitive and high-profile investigations into member conduct. Mark previously served as a Detective in the Police Service for over 20 years and has considerable experience in investigative interviewing, evidence gathering and report writing.³
- 4.2 During the course of this investigation we have considered various documents received from the complainants, the Town Council and the District Council. We offered to meet any Town councillors and officers who wish to provide evidence to the investigation; the following agreed to meet with us:

- Councillor Brian Gosling
- Councillor Jean Farmiloe
- Councillor Jackie Harrison-Hicks
- Ms Claire Lacey (the Town Manager)
- Mr Campbell McBryer (the Town Council's Leisure and Amenities Manager)
- Councillor Rachel Coles
- Councillor Robbie Robertson
- Mr Alan Sargent (Former Town Clerk)

We would like to thank all of the above for their assistance and discussing the various concerns in what we believe was an open and honest manner. We would also like to thank Mr Trevor Leggo (CEO – Sussex Association of Local Councils), who also agreed to discuss various matters relevant to this investigation with us, and Ms Sandra Gosling for providing additional evidence.

² Please note that I am not a lawyer; my considerations are based on my extensive experience of conducting standards investigations and is not legal advice.

³ In her comments on the draft report Councillor Harrison-Hicks stated: "*is it true your colleague Mark H and Campbell McBryer were friends in the police force, or like Sally Thompson and me, being ex-nurses you tend to stick together as you have more in common?*" I would like to assure all parties that prior to this investigation Mr Hedges had never met Mr McBryer and had no association with him; in addition, their common background as Police Officers had no bearing on my considerations.

5 The evidence

Background

Matters related to Councillor Jean Farmiloe's time as Mayor of Peacehaven

- 5.1 Councillor J Farmiloe was elected as Mayor of Peacehaven at the Town Council's Annual General meeting on **17 May 2016**. Councillor Brian Gosling was appointed as her Deputy Mayor.
- 5.2 The Town Manager, Claire Lacey, stated in her complaint that by **December 2016** Councillor J Farmiloe's conduct was contributing to a breakdown in relations between councillors and officers. It appears that this was during a period when the Town Council's Responsible Finance Officer (RFO) had left and Councillor J Farmiloe started going into the office to help with the banking and reconciliations. During this period (**24 October 2016 – 5 December 2016**) the Town Council secured the services of a locum RFO through the Surrey Association of Local Councils (SALC). Claire Lacey told us that the locum RFO, who was very experienced, highlighted a number of concerns with the way in which the Town Council was operating; this was at odds with the view of Councillor J Farmiloe.
- 5.3 As an example, Claire Lacey told us that one of Councillor J Farmiloe's fundraising activities as Mayor was through a weekly Bingo. The locum RFO advised that this was not a suitable way for the Mayor to raise money because it was illegal for the Town Council to make money from a gambling activity. Ms Lacey said that Councillor J Farmiloe was very unhappy and was very rude to her; this led eventually to the locum RFO leaving. Claire Lacey added that after the locum RFO's departure, Councillor J Farmiloe opened her own bank account and started putting the funds from the Bingo into her own account; though there was no suggestion that the money was used for anything other than contributing to the Mayor's causes⁴.
- 5.4 Claire Lacey told us at interview that relations between herself and Councillor J Farmiloe deteriorated further when she started making '*nasty, snide comments*' about her. Ms Lacey said that Councillor J Farmiloe was prone to gossip and

⁴ In her comments on the draft report, Councillor Farmiloe stated "the bingo had been run for quite a few years with the profits going to the Council coffers, and I pointed out if it was done in the name of the Mayor the monies should go to the Mayor's fund for their charities. I am very upset that it is inferred I was the reason for the Locum RFO leaving, as this was not the case. Most important of all that I opened my own bank account at that time. I opened a bank account with NatWest bank at the beginning of May 2016 in order to keep the Mayor's Allowance separate from my personal accounts (Paid in 2 halves: one half in May'16 and one half in Feb'17, in total £1550). I did pay in a few payments from the Bingo in cash and paid out the same amounts by cheque to some of the charities I supported so there would be a paper trail. I had no confidence in the way cash was accounted for at the time and did not want it to go astray. The monies from the Christmas Market I banked in December'16 for safe keeping for the same reason, I have a receipt for the £510. I paid back to the council (PTC) on 14 Feb'17 by cheque, although it did not leave my account until 23rd March'17 so still not good practice. I have paper work to verify the above."

that during the Remembrance weekend she was overheard calling one of her colleagues on the Council a [REDACTED]. Ms Lacey said that she was appalled.

- 5.5 Councillor J Farmiloe told us at interview that she and her husband, Councillor R Farmiloe, had only been elected onto the Town Council for the first time in **2015** and they both began with the hope that could work on behalf of the community for its benefit. Councillor J Farmiloe said though that she quickly became concerned by the state of the Town Council's finances; in particular the ongoing loss of money caused by a water leak in the park⁵. Councillor J Farmiloe said that her professional background and qualifications in accountancy meant that she was able to offer the Town Council assistance when they needed it. Councillor J Farmiloe acknowledged that this did have an impact on working relationships, stating "*I found a few errors and asked questions, this was not well received resulting in hostile behaviour from the Town Manager and a feeling of not being welcome in the council offices.*" Councillor J Farmiloe gave a number of examples that caused her concern, such as money being kept in the cupboard rather than being banked (apparently the safe key was lost)⁶.
- 5.6 On **13 December 2016**, Ms Lacey emailed Trevor Leggo, CEO of the Sussex Association of Local Council's (SALC), to express her concerns about Councillor J Farmiloe's conduct. In her email she asserted that:

Over the last few weeks Officers have been very uncomfortable with the behaviour of the Mayor and Chair of Peacehaven Town Council, who has acted unprofessionally, rudely and with no consideration for Officers. She comes into the office daily to discuss her personal lives, to complain about other Councillors and some of the comments made are incredibly rude. She does not have a good understanding of Council procedures, nor is willing to listen and is now behaving in such a way that I have concerns for her stability.

This is disruptive and not conducive to a professional, nor positive working environment. The disruptions are causing mistakes to be made, causing significant upset amongst the Officers and now misrepresenting the Council to residents and other towns across the County.

The Mayor as Chair of the Council has been upset by a previous decision taken by the previous RFO and subsequently by Council, to not hold money collected which she wishes to donate to charities. Our understanding of Local authority finances and on advice of Locum RFO, is that the RBS system once set up cannot be changed. There is not currently a Mayors Fund to allocate money to, which has caused her some distress. When this was explained to her, she unreasonably raised her voice and was incredibly rude to the RFO, in front of Officers and other Councillors. She went on to disregard the significant

⁵ There is an ongoing problem with a water leak at the Big Park in Piddinghoe Avenue which the Town Council reported has cost 'many tens of thousands' to repair

⁶ This has been denied by the Town Manager.

experience of the RFO, telling her 'you don't understand Mayors and you don't know anything about accounting'. The experience was unnecessary, incredibly rude, disrespectful and uncalled for. It was very upsetting for all involved and has not stopped since.

The incident we felt was dealt with on the day, however was continued in both meetings later on that week with other Councillors present, and then in the public Foyer in front of residents. She has attended meetings in Uckfield, Telscombe and Seaford, discussing the issues she has with other Councils, District Councillors, other Officers and now residents, against my advice and with no remorse when I and other Councillors have specifically requested her not to.

At a meeting with the Bank Manager and other signatories, the Mayor became upset that she discovered that she hadn't previously been on the bank mandate – this was an error made by the previous RFO. As we explained this to her, she stood up, confirmed that she was unhappy with the way it had been handled, quoting 'well I'm just the Mayor with no name aren't I?' and dramatically stormed out of the room. Even after much support and encouragement, she refused to come back in.

Last week there was a meeting with Chairs of the Committees at which the Mayor proceeded to raise her voice to them, again being rude and disputing the competence of the RFO.

During this time, an employment Sub Committee was held, at which the Mayor did not agree with the decision made to recruit the new L&A Manager. This information was confidential until she chose to share it with her husband, a fellow Councillor, who in turn shared it over the phone with a Telscombe resident. The following morning the Telscombe resident was overheard discussing it with other residents in the public Foyer. Councillor Jackie Harrison Hicks has now dealt with this issue, although due to the nature of the malicious content, Officers still do not feel that the Mayor has a good understanding of Councillors Code of Conduct, nor of the meaning 'Confidential'. It did not benefit any member of the public, nor Officer to have knowledge of this information.

This has continued to the Mayor now gossiping with other residents, Councillors wives and promoting some kind of hate campaign against both Officers and Councillors – in fact anyone who doesn't give her what she wants. One Saturday at the Christmas Fair, she was heard in front of residents to be putting down the Council, saying that she wasn't going to stay in post, that she would leave. This has not happened. She was sitting with friends at the end of the day, making unnecessary mess, spreading cake across the table, being incredibly rude again about Officers and discussing Council business in front of them and making disrespectful comments. I have since received a complaint from the local police who were in attendance at the 'appalling nature of her conduct'.

At the Fair, the Mayor collected money to the tune of £510 for her charities – she in fact chose these yesterday – she is now refusing to bring the money into the office and we understand she has kept this in her private bank account. I have no doubt that she has accounted for it on paper, but do believe it should be held at the Council.

A variety of people have attempted to discuss this with her, Officers and Councillors, to no avail. She is obviously unhappy, but her conduct is having an impact on the morale of all Officers, the ability for the Council to function and now bringing what is left of the Councils reputation into disrepute. Due to this malicious gossiping continuing, with both my and the RFO names and professionalism being defamed, I have concerns about her ability to continue as Mayor and Chair of Peacehaven Town Council.

The RFO has been so upset by this, she left the office in floods of tears last week, refusing to return. She has since refused to stay on past 21 December in post. Other Officers been really distressed. A new member of the team is aware of confidential information about his interview, which is unnecessary and distressing. We all appear to be in the middle of a very difficult and awkward situation, which doesn't seem to be improving.

Councillor Jackie Harrison Hicks and Councillor Lynda Hallett (Leader and Deputy Leader of the majority group) have been very supportive, but they too have also borne the brunt of the Mayors dissatisfaction, with them being shouted at in a private meeting with me last week. I left the meeting as I felt there was nothing more I could offer. I believe they are now also seeking advice on how to handle the situation. It really does appear to be getting out of control.

The RFO post has been advertised via SALC, our website and on social media pages, but only provided one applicant. This applicant is known to me and I have declared this at yesterday's Employment Sub Committee meeting. On advice from the Locum RFO, we will go to interview, but the Mayor is not in agreement with this, stating categorically that she feels the process is fiddled and that the advert had not been adequate. We do follow specific legal procedures for recruitment and this has been confirmed as correct by both the auditor and the RFO. It appears yet again to be complete disregard and lack of understanding for the workings of a Town Council and the legal HR procedures.

- 5.7 The locum RFO, who did leave the Town Council in **December 2016**, provided an exit statement included the following observations:
- i. *there is very low morale amongst staff. In my opinion they are quite disaffected and stressed due to the increase in demands of their time, some of the demands are not within their role;*

- ii. *There is some discord and disharmony at present. Members waltz into the office quite a bit, thus reducing productivity and is also very distracting, i.e. The Mayor demanding a cheque out of funds raised by Bingo profits or Members popping in uninvited for general chit chat and other constant interruptions or general statements. On one occasion the Mayor was rude in front of other members of staff which did not create a good atmosphere;*
 - iii. *Peacehaven Town Council appears to have forgotten their core function which is to act as a Council within the Local Government Act 1972 including Section 151. Members do not seem to have much understanding or have regard to the regulations required so when explained the boundary of regulations this seems to throw them out of kilter. Focus seems to be given to the bingo and other fundraising events and not making clear decisions or pass resolutions as a Council. Therefore, members of staff are unable to implement actions and are unclear of what is expected of them.*
 - iv. *On Friday 2nd December I arrived at the office which had a dreadful atmosphere. It was brought to my attention that the Mayor was talking about me in a derogatory manner and persisted to run down my competencies in front of staff and members of the public within close proximity. This caused The Town Manager and me considerable upset.⁷*
- 5.8 Claire Lacey told us that the feedback she was getting from people within Peacehaven and from other authorities at the time was terrible because Councillor J Farmiloe was constantly '*slagging her off*'. Ms Lacey added that their personal relationship had completely broken down because Councillor J Farmiloe would not talk to her.
- 5.9 Councillor J Farmiloe denied making some of the comments alleged (such as referring to a colleague as a [REDACTED]); she acknowledged though that she and Ms Lacey had an extremely poor working relationship. Councillor J Farmiloe said that Ms Lacey was a bully with a venomous nature who had often reduced her to tears. As an example, Councillor J Farmiloe referenced the meeting with the Bank Manager referred to above, where Claire Lacey alleged that she had refused to return to the meeting despite encouragement. Councillor J Farmiloe said that she had simply told Ms Lacey that as she was registered as a signatory she clearly wasn't required at the meeting. She said that Ms Lacey's 'encouragement' amounted to accosting her in the car park and shouting "*I will give you ten seconds to get back in that meeting*"; Councillor J Farmiloe refused and walked away.
- 5.10 In her comments on the draft report, Councillor Farmiloe firstly asked why, if her conduct had been so disruptive, Ms Lacey had not previously complained. Councillor Farmiloe pointed out that Ms Lacey had been involved in reporting

⁷ Ms Lacey commented that the Town Council has had five Clerks in the last seven years and five RFOs during her period as Town Manager.

numerous members of the Conservative Group to standards over that period, suggesting both that she had a vendetta against the Group and that her own behaviour can't have been considered that bad given that she had not been included. Councillor Farmiloe strongly denied being responsible for the resignation of the RFO and questioned why staff turnover in general at the Town Council was so high.

- 5.11 Mr McBryer (the Town Council's Leisure and Amenities Manager) told us that the problems between Ms Lacey and Councillor J Farmiloe arose initially because Councillor J Farmiloe appeared to have doubts about Ms Lacey's competence with the accounts and wanted to micromanage them herself. Mr McBryer said that when the locum RFO was in post relations worsened because she often clashed with Councillor J Farmiloe. Mr McBryer suggested that the locum RFO was too harsh with Councillor J Farmiloe and did not communicate well with her; the locum RFO very much had Ms Lacey's support however and this perhaps led to the deterioration in her own relationship with Councillor J Farmiloe.

Matters related to the Town Council's Annual return 2016-17

- 5.12 On **16 May 2017**, Councillor Brian Gosling was elected to replace Councillor J Farmiloe as Mayor. Councillor R Farmiloe was appointed as Deputy Mayor.
- 5.13 In late **May 2017**, the Town Council's Internal Auditor refused to sign off on the Town Council's annual return for the year 2016-17 because it appeared that £131,401.00 of expenditure was missing. Further work by the Internal Auditor identified that expenditure had been posted in error by the RFO⁸ directly to the reserves accounts instead of the income and expenditure statement; this meant expenditure was seriously understated and carried forward reserves were overstated.
- 5.14 The Internal Auditor met with Claire Lacey and senior councillors, including Councillors Gosling and Farmiloe, on **2 June 2017** in order to explore how the matter might be resolved. Ms Lacey engaged RBS to review the accounts again and they made circa 30 changes to correct the mis-posted items. The Annual Return was then re-written and emailed to the Internal Auditor, together with supporting documentation, on the morning of **6 June 2017**; the Town Council were due to meet that evening to decide whether the Annual Return could be signed off.
- 5.15 Claire Lacey told us at interview that the Town Council's Responsible Finance Officer (RFO) had made serious clerical errors that resulted in her having to spend the entire weekend on the phone with RBS moving the money, one transaction at a time, into the right account. Ms Lacey said it was a very stressful situation that was made worse by the RFO deciding to take two weeks

⁸ By this time a new RFO had been appointed by the Town Council. There have been serious allegations made about the competency of this particular RFO, who now longer works for the Town Council. These matters fall outside the scope of this investigation but were raised by Ms Lacey on the grounds that this RFO was allegedly good friends with Councillors J Farmiloe and Harrison-Hicks (this has been denied by Councillor Harrison-Hicks)

leave; *“It is my belief that she didn’t want to put her name to it because there were so many errors that the internal auditor had picked up on and it was obvious that she hadn’t followed internal procedures.”*

- 5.16 The Internal Auditor reviewed the redrafted Annual Return and confirmed that the Town Council now had a set of balanced accounts that could be presented to members for signing off. Claire Lacey emailed all members to update them and indicated that all the relevant information could be viewed by councillors in the office if they wished.
- 5.17 At 4.12 pm on **6 June 2017**, Councillor Gosling emailed the Internal Auditor as follows: *“I’m the mayor of Peacehaven Town Council. Our paper work shows the internal audit was not signed off as a lot of money was unaccounted for. We have an annual returns [sic] meeting tonight and our Town Manager has said this was signed as ok today. Can you confirm this as yes or no as I need to report back to council this evening?”*
- 5.18 The Internal Auditor responded within ten minutes to confirm that the information provided by the Town Manager was correct. He stated that on the basis of the changes made, the Town Council could sign off the Annual Return (while pointing out that this was the Town Council’s decision to make, not his). He ended his email: *“Signing off section 1 and section 2 of the annual return is not reliant on the internal audit being carried out in advance - I may be coming in on Friday to do some hard copy sampling, from what I can see it is remote that the numbers will change, if anything I may find that systems and process were deficient or unable to fully substantiate the financials presented. This does not mean the financials are incorrect- it will just highlight that evidence to support a robust opinion is insufficient.”* The Internal Auditor then contacted Claire Lacey to confirm that Councillor Gosling had contacted him directly about the matter and provided her with his response.
- 5.19 At the Annual Return meeting of **6 June 2017**, Councillor J Farmiloe proposed that the Town Council not approve the Annual Return. The proposal was seconded by Councillor Harrison-Hicks and supported by Councillor R Farmiloe. The remaining councillors voted against the proposal except for Councillor Harrison (who abstained) and Councillor Gosling (who held the Chair’s casting vote) and it was lost. Councillor Robertson then proposed that the Annual Return be agreed, seconded by Councillor Coles. The proposal was approved by a vote of 6 to 3.
- 5.20 During the discussion, Councillor J Farmiloe said that she objected to the approval of the Annual Return because she had been advised that the Town Councillors would be responsible if the Return was found to be in error. Councillor Gosling thought it might assist if Claire Lacey read out his email exchange with the Internal Auditor from earlier that day; Councillor Gosling confirmed that he had also spoken with the Council’s External Auditor about the matter earlier that day.
- 5.21 At this point in the meeting four members of the Town Council, including Councillors Robbie Robertson and Rachel Coles, questioned why Councillor

Gosling had made direct contact with the Internal and External Auditors without the authorisation of the Town Council; Councillor Neave requested that the Town Manager report the matter to the District Council as a potential breach of standards.

- 5.22 Claire Lacey told us at interview that she found Councillor Gosling's conduct disrespectful; she had updated him as to the Internal Auditor's position and yet he had subsequently sought confirmation of that directly from him. Ms Lacey commented that his decision to also contact the External Auditors (Littlejohns) was ludicrous and embarrassing because at that stage they had not been provided with any information. Claire Lacey said that Councillors Gosling, J Farmiloe and Harrison-Hicks had all been in the meeting with the Internal Auditor the week before and therefore been given the opportunity to discuss any of their concerns; Councillor Gosling's subsequent contact could only be interpreted as evidence that he did not trust her as Town Manager.
- 5.23 Councillor Gosling confirmed at interview that he had contacted both the Internal and External Auditor, telling us that he had done so at Councillor J Farmiloe and Councillor Harrison-Hick's request. This was confirmed by Councillor J Farmiloe, who told us that she had been very concerned when the Internal Auditor had initially refused to sign off on the Annual Return a few days earlier, and yet on the day of the meeting they were now being told by Ms Lacey that it was all ok.
- 5.24 Councillor J Farmiloe explained that following the Internal Auditor's initial refusal to sign off on the Return, she was asked by Councillor Harrison-Hicks to go with her to see Trevor Leggo at SALC to discuss the matter. Councillor J Farmiloe said that Mr Leggo advised that only the Chair of the Town Council could contact the Internal Auditor directly about the matter; Mr Leggo then provided her with a copy of the Internal Auditor's business card to pass on to Councillor Gosling, which she did.
- 5.25 Mr Leggo told us that he had no recollection of providing the advice described and therefore could not confirm or deny it. Mr Leggo was able to confirm though that he had been contacted on many occasions about matters related to Peacehaven and that in his opinion the Town Council was facing significant difficulties with regards internal personality clashes. Mr Leggo stressed that SALC has a fairly straightforward mantra when it comes to providing advice to councillors; *"before you do anything you need to know a) whether you've got the power to do it (as set out in statute)... and b) whether you have the authority to do it; and that's from a resolution from the Council or through delegated powers."*
- 5.26 Councillor Gosling confirmed that he never sought advice as to whether he had the authority to contact the Internal and External Auditor's directly (beyond being told to do so by Councillors J Farmiloe and Harrison-Hicks). Councillor Gosling also confirmed that he did not know whether his contact with them would result in an additional expense being incurred by the Town Council. Councillor Gosling acknowledged that he had previously received a warning after an earlier complaint had been made about him instructing outside bodies

and incurring costs to the Town Council without having had these costs formally approved.

- 5.27 Councillor Gosling and Councillor J Farmiloe stressed that the decision to seek external advice on the Annual Return was taken because of a genuine concern that the accounts were wrong. Councillor Coles on the other hand suggested that the motivation behind it, in particular Councillor Harrison-Hicks' involvement, was to undermine Ms Lacey.

Matters related to the Café

- 5.28 The 'Café' is a Town Council owned property that is leased to [REDACTED] ('the tenant') to run as a small business. Claire Lacey told me that one of the first things she did after becoming Town Clerk was to review the leasing arrangements and put in place new terms and conditions.
- 5.29 Ms Lacey told us that there have been several problems experienced by the café, one of which is an ongoing issue with the boiler. Ms Lacey explained that the building was originally fitted with a wood pellet boiler designed for a residential property (by the District Council); it simply is not fit for the purpose of supporting a commercial business.
- 5.30 In **October 2017**, the tenant P approached Councillor Gosling while he was in the café having a coffee to express her concern at the ongoing issue with the lack of sufficient water; she told him that there had been problems since July 2017. Councillor Gosling told her to contact Ms Lacey or Mr McBryer (the Town Council's Leisure and Amenities Manager) to discuss the matter.
- 5.31 In **December 2017**, Councillor Gosling saw the tenant again and was told that the situation had not been resolved. As a result, Councillor Gosling decided to speak to Claire Lacey about the matter. Councillor Gosling's advisor who accompanied him to interview (Mr Alan Sargent; previously Town Clerk at Peacehaven) told us that he had carried out some work on behalf of the Town Council to fix a water leak at the café, during which time he highlighted a number of additional health and safety concerns he thought should be addressed by the Town Council⁹. Mr Sargent said that Ms Lacey's response was to write him an angry letter telling him that it was none of his business. Councillor Gosling said that since that incident he felt that Ms Lacey had perhaps become sensitive to anyone commenting on the Town Council's responsibilities as a Landlord.
- 5.32 Mr McBryer told us that he managed the day-to-day relationship between the Town Council and café. He acknowledged that there had been issues with the boiler, however he also insisted that part of the problem was that the tenant did not use the boiler correctly, perhaps because she was dissatisfied with the cost of the wood pellets. Mr McBryer said that that he did not have too many

⁹ Mr Sargent said that he advised the Town Council in particularly that there were issues with the café's electrics.

concerns about Councillor Gosling directly involving himself in the matter, however he felt that it had been unnecessary and risked there being '*mixed messages*' in terms of the Landlord / leaseholder relationship.

Matters related to the instruction of an HR Company to investigate a complaint about the Town Manager's conduct

- 5.33 The Town Council offices are located in a small shopping centre that includes a Co-Op supermarket (who own the site). The company responsible for providing security for the site (the 'Security Company') are employed by a management company (the 'Managing Agent') on behalf of the Co-Op and Town Council.
- 5.34 Claire Lacey told us that for '*one reason or another*' she and the manager of the Security Company do not get on; possibly due to a clash of personalities or a disagreement they had at a Community Centre Partnership meeting¹⁰. Ms Lacey said that in any event she had lost faith in the Security Company and because of their poor working relationship, she took any ongoing concerns she had with their performance directly to the Managing Agents. This investigation has also established that at some point Claire Lacey had discussions with the Police about what she described as significant flaws with the delivery of their contract and that they in turn reported the Security Company to the SIA (Security Industry Authority). It is evident that these criticisms led to a significant deterioration in relations between Ms Lacey and the manager of the Security Company.
- 5.35 Trevor Leggo told us that in **February 2018** the manager of the Security Company telephoned him and said '*you need to get rid of your Clerk*' (meaning Claire Lacey). Mr Leggo told her that the matter did not have anything to do with him and explained his role. The Security Company manager indicated that she had serious concerns about Ms Lacey's conduct; Mr Leggo advised that she take these up with the Mayor (Councillor Gosling).
- 5.36 Councillor Gosling was subsequently contacted by the manager of the Security Company, who threatened to remove her guards from those areas of the centre managed by the Town Council. Councillor Gosling arranged to meet with her to discuss her concerns, which she had made clear were about Claire Lacey specifically. Councillor Gosling took Councillor J Farmiloe along to the meeting for support.
- 5.37 At the meeting the Security Company manager made several serious allegations against the Town Manager, including allegations of racism and the sexual harassment of security guards. Councillors Gosling and J Farmiloe expressed their sympathy and volunteered that they too found Ms Lacey difficult to deal with. Councillor J Farmiloe told us though that they never indicated that they believed the allegations, they simply wanted to ensure in the short term that the Security Company did not withdraw its services.

¹⁰ Ms Lacey said that she had no choice but to express concerns about the Security Company because of their failure to deal with anti-social behaviour on the site (this has been well reported in the local press)

- 5.38 Councillor Gosling and Councillor J Farmiloe both told us that they did not know what to do with the complaint. They both had also been concerned by the level of animosity displayed by the Security Company manager toward Ms Lacey. Councillor Gosling decided to contact Trevor Leggo for advice; Councillor J Farmiloe confirmed that she and Councillor Gosling also sought advice from Councillor Harrison-Hicks about the matter¹¹. Councillor Gosling said that he perhaps could have spoken to Ms Lacey about the matter had she not consistently been so difficult to communicate with; Councillor Gosling commented that the office was always a far nicer place to be when Ms Lacey was not present.
- 5.39 Councillor Gosling said that Mr Leggo had told him that it was not a matter that he could take directly to the Town Manager because it concerned a complaint about her conduct. Councillor Gosling said that Mr Leggo told him that he needed to go through HR Services Partnership and have them deal with it. Councillor Gosling said that he subsequently spoke to HR Services Partnership on **22 February 2018** who told him that they would contact the manager of the Security Company to progress the matter; *“from there it was taken out of my hands and didn’t really involve me anymore”*.¹²
- 5.40 Mr Leggo confirmed at interview that he did advise Councillor Gosling to seek ‘*serious HR support*’ and suggested that he contact HR Services Partnership for advice. Mr Leggo told me that HR Services Partnership are their chosen HR providers who have worked with approximately sixty councils, including Peacehaven, since SALC engaged them. Mr Leggo was equally clear however that he simply steered Councillor Gosling in their direction; he did not instruct him to appoint them to deal with the matter. Mr Leggo was equally adamant that HR Services Partnership would not have initiated any investigation without Councillor Gosling’s clear instruction, reiterating that SALC’s advice is for all councillors to ensure that they have the necessary authority from their Council before doing anything.
- 5.41 HR Services Partnership, at Councillor Gosling’s request, proceeded to investigate the complaint against Claire Lacey. Claire Lacey told us at interview that she only became aware of the complaint when HR Services Partnership telephoned her to ask her questions about the allegations. Ms Lacey said that she was attending a networking event at the time and had just had an embarrassing exchange with Mr Leggo, who had expressed his surprise at her presence. Ms Lacey said that she refused to be interviewed on the telephone because she had not seen the written allegations; she subsequently provided a statement in response to the complaints made.
- 5.42 Claire Lacey said that she was sickened by the allegations and strongly felt that Councillor Gosling had a responsibility to work with her on the matter rather than keep her in the dark and let her find out about it from a third party.

¹¹ Councillor Harrison-Hicks recollection was that she did not know about the complaint until after the investigation had been completed.

¹² Councillor Gosling did add that HR Services Partnership did subsequently phone him to ask if he thought Claire Lacey was racist, to which he said he did not believe so.

- 5.43 Claire Lacey said that her complaint about Councillor Gosling's conduct concerned the fact that once again he had acted without the necessary authority; in her view the matter should have in the first instance been dealt with by the Council's Employment Sub-Committee. Ms Lacey pointed out that Councillor Gosling had not been given permission to enter the Town Council into what she considered to be a new contractual relationship with HR Services Partnerships and incur the expense of the investigation¹³. Ms Lacey said that to date the cost to the Town Council has been £2900.00; having said that, at the time of the investigation the remaining councillors had refused to allow payment and instructed the Town Manager to see whether Councillor Gosling should be held personally responsible for the outstanding amount.
- 5.44 On **23 March 2018**, HR Services Partnership sent Councillor Gosling a copy of their investigation report setting out their findings. The HR report did not recommend that the Town Manager face any disciplinary action, however it did include full details of the allegations made as well as supporting statements. Due to the sensitive nature of its content, HR Services Partnership had marked the report "**STRICTLY CONFIDENTIAL AND ONLY FOR CIRCULATION TO PEACEHAVEN TOWN COUNCILLORS AND THE TOWN MANAGER**".
- 5.45 Councillor Gosling said that he was unsure what to do with the HR report and so he emailed HR Services Partnership to ask whether he should provide every councillor with a copy. Councillor Gosling said that HR Services Partnership emailed him to confirm that he should do so¹⁴. Councillor Gosling also discussed the matter with Councillor J Farmiloe and Councillor Harrison-Hicks.
- 5.46 On **6 April 2018** Councillor Harrison-Hicks, at Councillor Gosling's behest, arranged for all Town Councillors and the Town Manager to have a copy of the HR report delivered personally.
- 5.47 Councillor Harrison-Hicks said that she did not know that Councillor Gosling had instructed HR Services Partnership to investigate the complaint about Claire Lacey until she received a copy of the HR report from him. She confirmed at interview that prior to circulating the HR report to members, she sought the advice of Mary Mears, Chair of the local Conservative Association. Councillor Harrison-Hicks explained that Ms Mears was a person whom she regularly turned to for advice; I will explore this matter in more detail later.
- 5.48 Claire Lacey told us that in her view the HR report, which concerned her personal data (including what might be described as salacious gossip about her), should not have been automatically shared with all councillors. She added that regardless of her own view, Councillor Gosling should not have made the decision to circulate the report arbitrarily; it should have been made by either the Employment Sub-Committee or the Town Council as a whole. Ms Lacey said that she is confident that the HR report has also been seen by Trevor Leggo, Mary Mears and possibly a number of Conservative Group members

¹³ The Town Council does have an ongoing contract with HR Partnership Services, which sees them pre-pay for any HR Services they require. Ms Lacey said that the investigation automatically used up those hours.

¹⁴ This email has not been provided to the investigation.

(who sit on the District and County Councils). Ms Lacey confirmed that she had only shown the report to her deputy (Mr McBryer); she considered it likely though that the security guards had all seen it and she knew that the complainant had raised its content at a meeting with the local Police.

- 5.49 Councillor Coles told us that she was horrified when she received the HR report because it was evident just from the complaint that it was “*a load of rubbish*”. Councillor Coles said that she was amazed that Councillor Gosling had clearly commissioned an investigation in the matter without necessary authority. “*I was shocked that he would do such a thing because not only was it a complete waste of time but it was going to cost us a lot of money. He should have taken it to the Employment Sub-Committee meeting where we could have taken a good look at it and made a decision*”
- 5.50 Councillor Gosling acknowledged at interview that in hindsight he did not deal with the complaint against Claire Lacey as he should have done; in particular, he thinks that he should have sought the Council’s permission to engage the services of the HR Services Partnership. Councillor Gosling stressed though that his actions were not designed to attack Claire Lacey; he had been placed in a very difficult position and he acted in good faith at all times. Councillor Gosling insisted that he had treated Ms Lacey with respect at all times; she on the other hand had failed on numerous occasions to treat him and his colleagues with respect.
- 5.51 Councillor Gosling explained that when he received the complaint he did not think it appropriate to consult with Claire Lacey because it was about her conduct and he did not speak to her deputy (Mr McBryer) because he did not want to discuss such a sensitive issue with staff. Councillor Gosling said that by simply following the advice of firstly Trevor Leggo and then HR Services Partnership, he believed the matter would be dealt with properly. Councillor Gosling said that in his view there should have been far better guidance and adequate procedures in place so that he would have better known what to do.

Matters related to an altercation between Claire Lacey and Councillor Gosling on 23 March 2018

- 5.52 During **August 2016**, Mrs Sandra Gosling (Councillor Gosling’s wife) began volunteering on the Town Council’s information desk. Mrs Gosling stated¹⁵ that although she was very experienced at working in an office environment and enjoyed volunteering, she never enjoyed a good relationship with Claire Lacey.¹⁶ Mrs Gosling said that on **16 March 2018** she had an indication that their relationship had worsened when Ms Lacey completely blanked her for the entire day. Mrs Gosling said that when she asked other officers what they thought the problem was, she was told that Ms Lacey had accused Mrs Gosling of having a row with her. Mrs Gosling said that this was a complete fabrication and unfortunately indicative of her behaviour.

¹⁵ In a contemporaneous statement provided to the Town Council

¹⁶ Mrs Gosling provided several examples that she said demonstrated how Ms Lacey allegedly abuses her power by being rude and abrasive toward anyone who dares question her.

- 5.53 On **21 March 2018**, Ms X (a Town Council officer whose role included supporting the Mayor, Councillor Gosling, and his consort, Mrs Gosling) telephoned Mrs Gosling and asked her to come into the office the following day, while Ms Lacey was out. On **22 March 2018**, Ms X told Mrs Gosling that Mrs Lacey had instructed her to tell Mrs Gosling that she was no longer welcome at the Town Council as a volunteer with no other explanation. Mrs Gosling stated that this did not come as a surprise given their poor relationship, however she did express her dissatisfaction at Ms Lacey delivering that message personally.
- 5.54 Ms Lacey told us at interview that she had concerns that Mrs Gosling was not providing the standard of reception service required by the Town Council, commenting that she had failed to take down three important messages. Ms Lacey said that although this was unusual it was sufficient, when viewed alongside her concern that Mrs Gosling had an inherent conflict of interest as the Mayor's consort, for her to decide that the Town Council would need to find a replacement.
- 5.55 In **23 March 2018**, Councillor and Mrs Gosling attended the Town Council offices at approximately 9.00 am and waited for Claire Lacey to become available. At 9.10 am Ms Lacey concluded a meeting with Councillors Cole and Robertson and came out into reception. While it is not part of this investigation to consider the conduct of either Ms Lacey or Mrs Gosling, it is undisputed that the two had a heated exchange, during which Mrs Gosling said words to the effect '*I don't know who the hell you think you are*' and '*you're a lying bitch*'. Mrs Gosling subsequently apologised to those within earshot as Ms Lacey returned to her office.
- 5.56 In a statement prepared sometime after the alleged incident, Claire Lacey described what happened next as follows:

"As I [returned to my office] Brian Gosling, my Mayor, spoke to me. I was now behind the gate that allows entrance to the main office, from the foyer. Brian was stood the other side of this gate. He too appeared very angry. His face was flushed and he moved quickly. I was the other side of the gate from Brian. Brian pushed against the gate and against me with a great deal of force. I was forced aside by this and Brian was now in the office. Brian is a large man and I felt intimidated. I asked him to stay outside and to move away. He replied, "No. I am the Mayor I will come through if I like." I had stepped backwards into my office and Brian followed me. Brian was now very close to me and he shouted, "You are pathetic, you are disgusting. I can't believe you are still here. Jean tried to get rid of you before Christmas." Brian had his right fist clenched and I felt frightened that he would hit me. I tried to calm him down and said, "Councillor, you are upset. Can we talk about this another time when you are a little more calm?" He then shouted, "No we can't. You're a silly little girl. You are a disgrace you are pathetic. We should have got rid of you, I can't believe you are still here." I must accept that members of my Council are sometimes unhappy in relation to Council Business. I am the Town Manager and Proper Officer. I am required to listen to the concerns of my residents and my Councillors.

Brian's behaviour was far beyond what I felt was acceptable and I felt very threatened by him. As Brian continued he raised his right arm. His fist was still clenched. Brian was now within a couple of feet of me. I thought that he was going to hit me. Brian has become upset with me on previous occasions and has previously threatened me by clenching his fists and standing very close to me. I had felt on previous occasions that he would strike me. I now was certain that he would and said to him," Councillor you are upset. Please stop." Brian continued to stand close to me. I was very frightened. I was able to move away from Brian, so that he was unable to strike me. I said to him, "Please would you leave. Please stop this." Brian was still visibly upset. His face was still red, his right fist was still clenched and he shouted saying," You are pathetic." Brian then turned and left the office. A member of my team, [REDACTED], was in the office. [REDACTED] witnessed everything that had happened. As Brian left I sat at my desk and found that I was shaking uncontrollably and crying. I believe that had [REDACTED] not been in the office then Brian would have hit me. Brian had been very angry and I honestly believed that he was going to use violence against me. After Brian left the office I took some time to compose myself. Brian has behaved this way towards me before. I now feel I must report Brian's behaviour to the Police to prevent him from hurting me. Brian is the Mayor of Peacehaven and as such has some authority to enter Council Premises. I feel that if I do not report Brian's behaviour then he could return at any time.

5.57 Councillor Gosling denied pushing his way into Ms Lacey's office, saying he simply walked in. Councillor Gosling said that while he did not shout, he did strongly challenge Ms Lacey over the fact that the tenant in the Café still did not have reliable hot water. Councillor Gosling acknowledged that he was frustrated, but maintained that it was at the failure of Ms Lacey to resolve the ongoing issue with the Café's hot water rather than because of the way his wife had been treated. Councillor Gosling said that Ms Lacey made no reaction whatsoever to his concerns and just sat there. Councillor Gosling said that at this point he thinks he might have asked why she was '*still here*'; he told us that this was not a reference to her role as Town Manager, but rather in terms of: "*I thought she should have been trying to sort the problem [with the Cafe] at that point and then I walked back out of the room.*" Councillor Gosling strongly denied telling Ms Lacey that Councillor Farmiloe should have got rid of her when they had the chance, calling her a silly little girl or raising his fist in a threatening manner.

5.58 At 10.18 on **23 March 2018** Claire Lacey emailed Councillors Loraine, Coles, R Robertson, Botting and Neave to inform them about the incident. In her email she stated:

"Brian [Councillor Gosling] pushed his way into the office following me very closely, shouting something inarticulate, during the course of which he asked why I hadn't sorted out the heating at the Café. This is an ongoing problem and has been dealt with, with the leaseholders. Although I am happy for him to pass on [h]is concerns, Brian has no

authority to become involved with this and certainly not speak to me the way he did. I attempted to explain what action Council has taken so far, at which point he raised his voice again and began waving his hands around, pointing and making a fist in the air. He told me quite angrily that I was a "waste of space... a disgrace... pathetic... and didn't know why I was still here". I folded my arms and stood back to look at him as I was not prepared to discuss this with him any further. He said something about the advertising board in the main foyer, which is broken and while I was explaining it is no longer under contract, said he is going to call [the IT Contractors] about the board. I explained they had nothing to do with the board as the company who installed it were no longer doing work for us. He continued to shout about [the IT Contractors], saying he was going to ring them anyway. I explained he had no authority. He left the office and Sandra and Brian continued to speak disrespectfully of me through the Foyer, in front of residents."

- 5.59 Claire Lacey told me that she decided to email the Independent members of the Town Council and the Conservative Group Leader (Councillor Loraine) to seek their support because in her view the incident was part of a concerted attempt to get rid of her by the majority Conservative Group. Claire Lacey told us that on **10 March 2018** she had been contacted by a senior political figure who told her that he had just overheard attendees at the Conservative AGM say that Peacehaven was having the same problem as Telscombe and required the same solution; the Clerk at Telscombe had recently resigned after disagreements with members. I will explore this in more detail below.
- 5.60 Councillor Coles, R Robertson and Neave all responded to Claire Lacey to assure her that she had their support and that action would be taken. As a result, Councillors R and A Robertson approached Councillor Gosling and asked him, as Chair, to call an extra-ordinary meeting of the Town Council so that a complaint about wife's conduct could be discussed¹⁷; Councillor Gosling refused. As a result, on **26 March 2018**, Councillors Coles, Neave, Botting, Simmons, R Robertson and A Robertson gave notice that they intended on having an extra-ordinary meeting. This was held on **6 April 2018**.
- 5.61 At the extra-ordinary meeting, Councillor Coles stated that the role of Mayor's Consort had only been agreed by the Town Council on the understanding that the Consort would abide by the same Code of Conduct prescribed for the Mayor. Councillor Coles proposed that as a result of Mrs Gosling's reported behaviour she be asked to step down and return her chain of office. Councillor Maskell told those present that he thought the decision harsh, however it was agreed that Mrs Gosling should stand down as Mayor's Consort with immediate effect because she had breached the Council's Code of Conduct. It should be noted that the Mr McBryer clerked the meeting (rather than Ms Lacey) and that

¹⁷ Standing Order 6 provides that the Chair of the Council may convene an extra-ordinary meeting of the Council at any time. It goes on to provide that should the Chair fail to do so or refuse within seven days of having been requested in writing to do so by two councillors, any two councillors may convene an extra-ordinary meeting of the Council.

Councillor Gosling, J Farmiloe, R Farmiloe, Harrison-Hicks, Harrison and Smith did not attend¹⁸.

- 5.62 Ms Lacey said that from a personal point of view she felt that the decision taken was harsh, however she had been careful to stay out of the matter as far as she could¹⁹. Ms Lacey said that unfortunately relations within the Town Council worsened though as a result, in part because she felt that Councillor Gosling held her responsible for what had happened. Ms Lacey added that around the same time an officer of the Town Council had alleged that [REDACTED]; [REDACTED]; she told me that Councillor and Mrs Gosling had got themselves involved when the officer who originally expressed the concerns then alleged that Mr McBryer had not dealt with them vigorously enough. In the meanwhile, Councillor R Robertson contacted the press to inform them about the decision to force Mrs Gosling to stand down as consort, which upset both Councillor and Mrs Gosling.
- 5.63 Ms Lacey said that subsequent to this incident, Councillor Gosling did try and arrange for mediator to come into the office to work with them both; Ms Lacey said that she had to again remind Councillor Gosling that he could not expect the Town Council to pay for a mediator without having agreed to the expense first. Ms Lacey said that they did have a long discussion about how important it was for Councillor Gosling to seek the necessary authority before acting. She told us that his response was that he was the Chair of the Council and so could do as he liked.

Investigators considerations of the disputed facts.

- 5.64 The focus of this part of the investigation is on Councillor Gosling's behaviour towards Claire Lacey following her altercation with his wife. It is undisputed that there was a heated exchange between Mrs Gosling and Ms Lacey. It is also undisputed that Councillor Gosling chose to immediately follow Ms Lacey into her office to raise concerns about the Town Council's alleged failure to properly support their tenant who ran the café. What is in dispute is what was said by Councillor Gosling and whether his manner was aggressive and intimidating,
- 5.65 Since no audio or video recording of the conversation has been made available to the investigation, considerations of witness credibility and indirect evidence become more important. The only witness to the incident (other than Councillor Gosling and Ms Lacey) has not been available to this investigation. I have to determine therefore whether the evidence indicates that Councillor Gosling acted as alleged based on two accounts; his and Ms Lacey's. In addition. I bear in mind other factors, including: circumstantial evidence, and contemporaneous documentation.

¹⁸ Councillors Gosling and Harrison-Hicks both stated in their comments on the draft report that they did not attend this meeting because it was not called correctly; they assert that the required three-days notice was not provided.

¹⁹ Councillor Gosling did not accept this, stating that he believed that Ms Lacey did want his wife removed as consort.

- 5.66 We found both Councillor Gosling and Ms Lacey to be credible witnesses who were confident in their recollections. The standard of proof to be applied in this investigation however is not whether an account is plausible but whether, on the balance of probabilities, it is more likely to have happened than not.
- 5.67 Given the exchange that had just taken place between Claire Lacey and Mrs Gosling it is unsurprising that emotions were heightened. While I note that Councillor Gosling strongly denies some aspects of Ms Lacey's account, the loss of temper can lead both to a loss of inhibition in speaking and to an imperfect recollection of what was said.
- 5.68 Having said that, I also note that the statement Claire Lacey made sometime after the event is significantly different to that which was emailed to the Independent members of the Town Council immediately after the exchange. In my view the later statement, which makes no reference to Councillor Gosling expressing concerns about the café, suggests that Councillor Gosling was far more threatening and abusive than in the emailed account. I think it relevant that Councillor Gosling was particularly strong in his denial of those aspects that were included in the statement but not in the email (that he called her a silly little girl, said that Councillor J Farmiloe should have got rid of her when she had the chance and raised his fist as if to strike her). Evidentially, I place more weight on the account that was sent out in Ms Lacey's email to the Independent councillors than I do her later statement or Councillor Gosling's recollection. Accordingly, I find that the account shown in paragraph 5.57 as fact.²⁰

Matters related to Councillor Harrison-Hicks' emails between 22 March 2018 – 26 March 2018

- 5.69 On **22 March 2018**, Councillor Harrison-Hicks emailed Claire Lacey, copying in Councillors Gosling, Duhigg and J Farmiloe. In her email Councillor Harrison-Hicks included the following:
- i. "I went into the office this morning to speak with you and found you were again not working. Why was that? It does appear that you are spending quite amount of time out of the office."*
 - ii. "Why did you not have the common courtesy to inform me of the cancellation of the SLR meeting scheduled to be held at Telscombe on **20 March 2018?**"*
 - iii. "Has Campbell [Mr McBryer] been discharged from sick leave...? Had he handed in sick certificates and a final one? If he is working from home, which cllrs gave permission and when?"*
 - iv. "When did you last speak to [the IT Contractors] about the screen in the lobby? I noticed that the screen in the lobby was not working and had not been since before Christmas. I rang [the IT Contractors] to*

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find out why they have not repaired the screen. I was informed that they could not do it and would have to call in another company... I have suggested to them the screen must be up and running fully by the end of March 2018 as we are losing money from the adverts. I am not only a cllr but a resident of Peacehaven. I strongly object to my money being wasted on such a company that appears to be incapable or incompetent in carrying out such work. I also informed them I would be suggesting to cllrs we look for another company if they lack the skills to continue. Since speaking with a staff member of [the IT Contractors] this morning I have made enquires re. this company and those people I spoke with did not rate them highly."

5.70 On the same day Claire Lacey addressed Councillor Harrison-Hicks²¹ concerns by confirming the following:

- i. It had been necessary for her to leave the office temporarily and if Councillor Harrison-Hicks wished to meet with her, she should make an appointment.
- ii. The County Council are responsible for SLR meetings, not the Town Council. It is their responsibility to keep all members updated.
- iii. Mr McBryer has all the necessary certification and that she, as his line manager, was managing his return to work. She confirmed that all matters relevant to this had been discussed by the Employment Sub- Committee.
- iv. Mr McBryer was taking responsibility for fixing the screen, as he had done previously. Councillor Harrison-Hicks was asked not to contact the IT Contractors again on behalf of the Town Council

5.71 On **24 March 2018**, Councillor Harrison-Hicks responded via email, copying in the same councillors. Councillor Harrison-Hicks email included the following:

- i. She challenged Claire Lacey's contention that she had only left the office temporarily on the 22 March, alleging that she had checked with other staff members and Ms Lacey never went in. She further contended that as Ms Lacey's employer, she and indeed any councillor could come and see her whenever she wanted (within reason) and that Ms Lacey should be in the office and available during the working day.
- ii. That while she was aware that Claire Lacey was not responsible for cancelling the SLR meeting, she knew full well that Ms Lacey had known about the cancellation; why had she not told her?
- iii. She challenged Ms Lacey's right to manage Mr McBryer's return to work, commenting that the members of the Employment Sub-

²¹ Her emailed copied in the same councillors as included by Councillor Harrison Hicks

Committee that she had spoken to knew nothing about his home working. Councillor Harrison-Hicks indicated that she wanted to see the relevant paperwork, including his discharge certificate.

- iv. She questioned Mr McBryer's qualifications with regards to repairing the screen in the lobby and maintained that it had not worked for several months. She insisted that the Town Council had lost advertising revenue and questioned whether any had demanded refunds. She also criticised the IT Contractors for failing to do their job properly.
- v. Councillor Harrison-Hicks challenged the Town Manager to explain why the ceiling in the foyer kitchen was leaking again, commenting that maybe the Town Council had again managed to contract services to a company that were not up to the job.

5.72 Claire Lacey told us at interview that this was typical of the aggressive correspondence she receives from Councillor Harrison-Hicks. With regards the issues raised about the screen in the lobby, Ms Lacey and Mr McBryer both told us that the screen has not worked properly for a couple of years, however it was out of warranty with the company who provided it and no money had been made available to have it looked at professionally. They explained that while the IT Contractors were the Council's IT contractors, maintaining the screen had nothing to do with that contract. They also both confirmed that the screen was used to publicise local events; it had never been used by paid advertisers and never generated any revenue. Ms Lacey added that Councillor Harrison-Hicks decision to contact the IT Contractors directly was inappropriate however not unusual, commenting that she had spent more time talking to the IT Contractors about their complaints about councillors than she had discussing the Town Council's IT issues.

5.73 Councillor Coles told me that Councillor Harrison-Hicks' emails were subsequently brought to her attention after Claire Lacey had complained. Councillor Coles provided me with an email that she sent to Claire Lacey and other councillors at the time which included the following:

"This is not a matter for councillors to be involved in, we deal with policies and decisions not this day to day stuff! I do believe as independent councillors that have been subjected individually to bullying, it would appear that the same is happening with members of staff. Claire please keep us informed about anything like this that happens. This email is not necessary, the questions asked are not necessary and I do believe that boundaries are being crossed between what a councillor is supposed to be involved in and what they are not. If Councillors start disrupting the day to day running of the council, then that of course becomes a problem. I would suggest Claire, if you haven't already, print this email off and keep it in a file, including the one with my comments. Again Councillor Harrison Hicks has called a company without going through the proper procedure. It is clearly stated that a councillor should not be contacting anyone with regard to

any contracts that we have, unless specifically asked by the Town Manager.” [sic]

5.74 On **25 March 2018**, Councillor Harrison-Hicks emailed Mary Mears (the Chair of the Conservative Local Association), asking her to contact Councillor Gosling to discuss the Town Manager’s behaviour. In her email she included the following information:

- i. That Ms Lacey had apparently threatened to take Town Council members and staff to tribunal *‘for harassment’*;
- ii. That Ms Lacey had possession of the Town Council credit card: *“we need to stop her use of it – just in case”*
- iii. That she (Councillor Harrison-Hicks) *‘had a go at her’* (Ms Lacey) for not telling her about the cancellation of the SLR meeting.
- iv. That Ms Lacey had failed to deal with problems at the Café; had only been working in the office 4 days a week and had been using her personal laptop for Town Council business.
- v. That something had happened in the office – apparently a row between Ms Lacey and Councillor and Mrs Gosling about the way in which Ms Lacey spoke to and about Mrs Gosling.
- vi. The email ended: *“Our finances are at risk and I want and have asked Cllrs for a Financial investigation, I did mention this to you in a previous email. We could be at serious risk”*

5.75 Later the same day Councillor Harrison-Hicks emailed Mary Mears again, this time copying in Mr Nigel Enever (a Conservative member of the County and District Councils). In this email she made the following comments:

- i. That there were rumours that Ms Lacey intended on calling an extraordinary meeting because she was being harassed.
- ii. That she would like a financial investigation to establish why the Town Council was ¼ million over budget (she acknowledged that the water leak in the park had something to do with it, however why had that matter not been resolved?).
- iii. That the Town Council is paying contractors who are not doing their jobs properly.
- iv. That the tenant in the Café was upset about a number of issues (see paragraphs below for more details).
- v. That Ms Lacey was only working in the office 4 days a week.

- vi. That Ms Lacey had claimed that the Employment Committee had agreed that Mr McBryer could work from home: *“Not according to those I spoke with”*.
- vii. That the Conservative Group on the Town Council were making *“contingency plans just in case. I think we will need them”*.²²

5.76 On **26 March 2018**, Councillor Harrison-Hicks emailed Trevor Leggo at SALC to express her serious concern over the Town Council’s finances. She told him that she had spoken to the Conservative Group and the two County Councillors about the need for a financial investigation. In her email, Councillor Harrison-Hicks:

- i. Criticised Ms Lacey for working 4 days a week and for not coming in when it snowed (when other staff members were able to make it to work).
- ii. Suggested that Ms Lacey had lied to her about the Employment Committee agreeing to Mr McBryer working from home.
- iii. Said that she was continually being told by residents that Ms Lacey had been rude to them
- iv. Gave details of the concerns expressed by the tenant at the café (details below).
- v. Alleged that Ms Lacey and Councillor Coles had used Town Council money to buy two bottles of wine over Christmas and alluded to the possibility that Ms Lacey then driven home drunk.²³
- vi. Asserted that staff were scared of Ms Lacey but too fearful of losing their jobs to do anything about it.²⁴
- vii. Suggested that Councillor Gosling had concerns about money missing from the Mayoral funds and that Councillor J Farmiloe before him had expressed similar concerns.
- viii. Pointed out that Ms Lacey had been accused of racism and making someone feel uncomfortable by putting her arm round them; she did point out though that an HR company had found insufficient evidence as to warrant any further action.

²² In her comments on the draft report Councillor Harrison-Hicks says that this was in reference to councillors leaving, not Ms Lacey

²³ In her comments on the draft report Councillor Harrison-Hicks challenged my summary, stating: ***“incorrect.*** *I was informed by residents that Ms. Lacey together with Cllr Coles were drinking wine. One said he heard Ms. Lacey saying she would get money from petty cash. I said I did not know how she got home.”*

²⁴ Councillor Harrison-Hicks told me that she has an email from a member of staff to support his assertion

- ix. Said that she was not the only one with trepidations about Ms Lacey holding the Town Council credit card and suggested a reduction in spending by the Town Council, which could well mean getting rid of a staff member.
- x. Said that she was not happy about being told that she could not speak directly to Town Council contractors.

Councillor Harrison-Hicks indicated that she did not expect a response from Mr Leggo; she just wanted to express her frustrations and concerns. She said that her fear was that the Town Council would shortly be bankrupt.

- 5.77 Councillor Harrison-Hicks subsequently forwarded the email detailed above to Mary Mears.
- 5.78 Claire Lacey told us at interview that in the first instance these emails were an example of Councillor Harrison-Hicks sharing confidential information about the Town Council with those who are not entitled to see it²⁵. Claire Lacey also expressed concern at how disrespectful Councillor Harrison-Hicks had been, both toward and about her. In her comments on the draft report Ms Lacey said that she had not previously been aware of Councillor Harrison-Hicks' email to Trevor Leggo on **26 March 2018**. She told us that she was incredibly offended by the various incorrect statements made.
- 5.79 Mr Leggo told us at interview that he had spoken with Councillor Harrison-Hicks and other members of the Town Council on numerous occasions over the past couple of years. Mr Leggo commented that Peacehaven Town Council appears to have experienced a lot of difficulties over the period and that this was in part due to a breakdown in relations between Ms Lacey and certain councillors. He was able to confirm that Councillor Harrison-Hicks has stated clearly to him on more than one occasion that she was intent on getting rid of Claire Lacey as Town Manager.²⁶
- 5.80 Councillor Harrison-Hicks told me that Mary Mears is someone that she trusts and who she is confident knows that the information she received is for her eyes only. Councillor Harrison-Hicks said that in any event she did not think she was sharing anything that she shouldn't: *"I have aired some of my frustrations to her with the office in general and Claire in particular, doing or not doing her job."*

Further matters relating to the Cafe

²⁵ On **25 August 2017** the District Council's Monitoring Officer confirmed by email that having met with Councillor Harrison-Hicks, she was satisfied that Councillor Harrison-Hicks had breached the Code of Conduct by disclosing confidential information pertaining to considerations of the Town Council's Employment Sub-Committee to a member of the public. The Monitoring Officer stated: I note that the Town Council has suspended Cllr Harrison-Hicks from the Employment Committee pending the outcome of the referral to the Monitoring Officer. My recommendation is that this suspension should continue and that Cllr Harrison-Hicks should not sit on the Employment Committee or any Employment sub-committee for the remainder of the 2017/18 municipal year.

²⁶ Councillor Harrison-Hicks denied ever telling Mr Leggo this, stating *"I have always said she was the right person for the job – if she would only listen."*

- 5.81 Councillor Harrison-Hicks told us at interview that on **25 March 2018** she went to see the tenant at the cafe after Councillor Gosling asked her to²⁷; she explained that Councillor Gosling was concerned because the tenant had complained that she was still having boiler issues and had still not received a copy of her most recent contract with the Town Council (agreed several months earlier). Councillor Harrison-Hicks said that the tenant told her about the problems she had been having and expressed disappointment that emails she had sent to the Town Council had not been responded to.
- 5.82 On **27 March 2018**, Councillor Harrison Hicks emailed Claire Lacey²⁸ to inform her that she had heard rumours that Councillor Wayne Botting or his wife would be taking over the café. Councillor Harrison-Hicks said she found the news very disturbing and went on to ask why the tenant had not received a copy of the new contract signed in July the previous year; why the immersion heater had not been repaired or replaced; why she had been asked to pay £600 for the removal of used oil and what arrangements had been put in place over Easter to support her. Councillor Harrison-Hicks said in her email that she had spoken to a retired corporate lawyer and been told that the tenant had every right to sue the Town Council for breaching the lease agreements. Councillor Harrison-Hicks ended her email by confirming that she had arranged to meet a representative of Southern Water over the weekend and so would mention the water leak in the park to him again and find out why they were not doing more to investigate the matter²⁹.
- 5.83 On **2 April 2018**, Councillor Botting emailed Claire Lacey to report that he had been told that Councillor Harrison-Hicks had informed the tenant that Ms Lacey was going to revoke her lease and replace her with Councillor Botting and his wife. Councillor Botting said that Councillor Harrison-Hicks' malicious lies had caused him and his wife distress and that he had contacted the tenant to confirm that it was not true.
- 5.84 Mr McBryer told us that he did not know why Councillor Harrison-Hicks had decided to involve herself in the matter, telling us that the Town Council had sent the tenant all the appropriate paperwork with regards her contact³⁰. Mr McBryer said that he had subsequently contacted the tenant in to reassure her that her tenancy was secure and that the tenant had told him that it had been Councillor Harrison-Hicks who had told her that Claire Lacey was planning on bringing in Councillor Botting and his wife to run the café. Mr McBryer said: *"I was working with the leaseholder to solve the problem and there was no need for Councillor Harrison-Hicks to become involved. The problem was complicated to solve and was going to take some time which I have apologised*

²⁷ The evidence suggests that Councillor Gosling had also intended to attend the meeting.

²⁸ Copying in County Councillor Enever and Town Councillors Gosling and Duhigg

²⁹ This concerns a longstanding water leak that was costing the Town Council substantial amounts of money

³⁰ Mr McBryer explained that the tenant had not been given a new contract in October 2017; there had simply been some amendments made to the terms and conditions. Mr McBryer said that confirmation of these changes had been sent to the tenant and that in those circumstances the issuing of an entirely new contract was unnecessary.

to [the tenant] for. Councillor Harrison-Hicks emailed me about the boiler problems and I tried to explain that it was not a problem that could be solved overnight without spending thousands of pounds.”

- 5.85 Claire Lacey told us that this was another example of Councillor Harrison-Hicks involving herself unnecessarily in the operational side of the Town Council, thereby undermining those officers whose responsibility it was to deal with such matters. Ms Lacey also told us that she had discovered that Councillor Harrison-Hicks had sought advice from Lawson Lewis Baker solicitors on the matter. Ms Lacey questioned whether it was appropriate for a Town councillor to seek legal advice (albeit informal and at no charge) on behalf of a Town Council tenant with a view to that tenant potentially taking legal action against Councillor Harrison-Hicks' own authority.
- 5.86 Councillor Harrison-Hicks told us that she did not know who started the rumour about Councillor and Mrs Botting taking over the café. She also confirmed that she did not seek formal legal advice on behalf of the tenant, she in fact spoke to an acquaintance (who was a retired lawyer) to ask advice about a property that she rents out personally. Councillor Harrison-Hicks said that she applied the advice she received with regards her own property to the tenant's situation and then simply warned the Town Manager that the tenant likely had grounds to sue.
- 5.87 Councillor Harrison-Hicks said that she felt it was part of her role to represent residents within Peacehaven and that she tried to assist the tenant because the tenant felt that she was not being served well by the officers; this was evidenced by emails the tenant had sent to her. Councillor Harrison-Hicks said that communication between her and Ms Lacey was clearly an issue because at no point was she told that the tenant was due a new contract or that there were wider issues with the boiler; Councillor Harrison-Hicks said that she was just told (by Mr McBryer) that she was ignorant and that it had nothing to do with her.

Matters related to an alleged conspiracy to remove Claire Lacey as Town Manager

- 5.88 Claire Lacey said at interview that in her view Councillors Gosling, J Farmiloe and Harrison-Hicks were all involved in a conspiracy to remove her as Town Manager. Ms Lacey pointed to the way in which the complaint against her from the Security Company was dealt with as the clearest example; she did though refer to additional incidents where she alleged that they had sort to either denigrate or undermine her (some of which were included in her complaint and shown above). As an additional example, Ms Lacey pointed to the fact that Councillor J Farmiloe and Councillor Harrison-Hicks had both refused to sign cheques or even be included as a bank signatory despite respectively being

Chair at the time, which Ms Lacey said often prevented her from doing her job.³¹

- 5.89 Claire Lacey acknowledged that her manner can sometimes be brusque but felt that the problems stemmed from the fact that when she started work, in October 2015, she tried to introduce a level of professionalism that some of the councillors could not “*get their heads round*”. She explained that previously if individual councillors wanted to get involved and do something on behalf of the Town Council they simply went ahead and did it. Ms Lacey said that some councillors needed learn to seek the appropriate authority before doing something on behalf of the Town Council, let the relevant officers do their jobs without day to day interference and follow the rules; “*The phrase that I hear constantly is ‘we’ve always done it this way’ and it’s so frustrating because times have changed, procedures have changed and the older, more experienced councillors are training the new councillors coming through; telling them the wrong way to do things, which makes the job twice as hard.*”
- 5.90 Ms Lacey also made the point that when she was first employed by the Town Council the Conservative Group had been very strong, with sixteen of the seventeen councillors. Since that time there have been disputes within the Conservative Group and several councillors have either left the Town Council or become Independent. Ms Lacey speculated that this has led to certain councillors not being able to get their way in perhaps the way that they were used to. She also said that Councillor Simmons, who has also now become an Independent, had told her in **March 2018** that he could not understand with the Conservatives hated her so much or why they were plotting her downfall. Ms Lacey said that she: “*was hearing similar things from various different people and suspect they came straight from Jackie [Councillor Harrison-Hicks] as the things they said were reminiscent of the kind of terminology she uses. The difficulty for me is finding the proof that Jackie was behind everything because all I really have is what people have said to me.*”
- 5.91 Mr McBryer said that in his view there are a group of councillors who are unhappy at having Claire Lacey as Town Manager, stating “*My opinion is that Jean Farmiloe and Councillor Harrison-Hicks may have decided to try and get rid of Claire because of the issues they had with her and that as a result they and other members of the conservative Group were trying to discredit her. I would put Brian Gosling as part of this group as well. As they deemed me to be an ally of Claire there seemed to be a drive to discredit me also.*”
- 5.92 Councillor Harrison-Hicks told us that it was evident right away (from October 2015) that Claire Lacey had a difficult manner and that she was not prepared to take guidance, despite being new to job and with no experience of being a Town Manager. Councillor Harrison-Hicks insisted though that she has never tried to deliberately undermine Ms Lacey. What she did take offence to though were Ms Lacey’s attempts to restrict her from talking to people or doing her job

³¹ This was confirmed by Councillor Coles, who said that it appeared that they deliberately wanted to block the Town Council from working properly. In her comments on the draft report, Councillor Harrison-Hicks stated “*I did not want to sign cheques. I believe it is my prerogative to agree or disagree. I did not agree to sign simply because I did not want to do so.*”

as a councillor: *"I feel within my rights when I said that I will contact and speak to whoever I want"*.

- 5.93 In her comments on the draft report, Councillor Harrison-Hicks highlighted numerous concerns she had about Ms Lacey's conduct, including examples where she felt that Ms Lacey had tried to improperly influence Town Council matters (including the appointment of the Mayor); performed her role as Town Manager poorly; made unfounded accusations against councillors; insulted members of the public; wrongly disciplined members of staff; given incorrect advice; and lied to her. It is not within the scope of this investigation to investigate any of her allegations against Ms Lacey, however.
- 5.94 Councillor Harrison-Hicks denied that there was any type of 'conspiracy' to oust Claire Lacey as Town Manager. Councillor Harrison-Hicks confirmed though that she and others have at various times raised and discussed several serious concerns they have about Claire Lacey's ability to carry out the role as Town Manager. Councillor Harrison-Hicks told us that she is now Mayor and as such was very concerned about what may now happen, given how closely the Mayor and Town Manager should work. Councillor Harrison-Hicks told me that there had been a complete breakdown in their relationship and that the Town Council was left divided and dysfunctional.
- 5.95 Councillor J Farmiloe said that she had never been overly involved with the Conservative Group, though she and Councillor Gosling had often sought advice from Councillor Harrison-Hicks after being elected because she was experienced and Leader of the Group on the Town Council. Councillor J Farmiloe told us that there were only two Conservative Group meetings in the entire year and that she can't recall anyone ever seriously suggesting that there should be a concerted effort to get rid of Ms Lacey: *"There were lots of things said about Claire but never anything in great detail about trying to get rid of her. My opinion was better the devil you know and although I hadn't myself experienced other town managers, there was talk about problems with other ones in the past so getting rid of Claire wasn't something that was discussed. I never heard that anyone specifically wanted Claire to leave and it's not really something I consider as a possibility anyway."*
- 5.96 Councillor J Farmiloe did express the view that Ms Lacey clearly did not like the Conservative Group and that she had tried to *'play us off on each other'* many times. Councillor J Farmiloe acknowledged that there has been a significant worsening of relations between various individuals at the Town Council, but placed responsibility for that firmly with Ms Lacey. Councillor J Farmiloe told us that many councillors and officers fear Ms Lacey's erratic behaviour and that it is Ms Lacey's behaviour toward others that should be of primary concern. Councillor J Farmiloe said that she is glad that she took the decision to resign and walk away.
- 5.97 Councillor Gosling agreed with Councillor J Farmiloe, telling us: *"I would agree that relations between Claire and the Conservative members of the Council have deteriorated but there was not a conspiracy to get rid of her. It is my belief that Claire has tried to upset that balance within the Council and perhaps been*

responsible for turning Councillors against one another. When I started we had sixteen Conservative Councillors to one but things are very different now. Some have resigned and others have become Independent Councillors and I believe that Claire has held some influence over this. She seems to want to manipulate the system to her benefit.”

- 5.98 Councillors Coles and R Robertson both told me that they became Independent councillors as a result of bullying within the Conservative Group. While this is not within the scope of this investigation³², they did express the view that certain members of the Group had become fixated on denigrating and undermining Claire Lacey. Councillor Robertson said: *“I strongly believe that Claire was victimised and bullied. Her introduction into this set up caused problems because she had a level of professionalism that the other councillors didn’t like. They resented the restrictions put on them and Claire was blamed for delivering the message to follow correct procedure.”*

6 Conclusions and recommendations

- 6.1 My approach to this investigation has been to attempt to establish what happened with close reference to the relevant documentation and best recollections of those involved.
- 6.2 The investigation has established in the first instance that all three councillors have been involved making decisions and contacting external bodies / individuals and contractors without having the necessary authority.
- 6.3 The relationship between the Town Manager and Town Council (and by extension the Town Manager and individual councillors), while legally explicit, in practice will vary and can become complex. In law the Council is a Corporate Body. In other words, it functions legally as a single entity. All its formal decisions are therefore the responsibility of the Town Council as a whole and not those of individual councillors, whatever their personal views. In this system, the only ‘executive power’ resides with the Council as a legal entity.
- 6.4 The Clerk / Town Manager reports to the Council as a body, and not to any individual councillor, even the Chair. This creates the unusual employment position that the Clerk does not have a line manager in the conventional sense. As a consequence, the relationship between the Clerk and members must be professional; there is also an obligation on all parties to remain at arm’s length to maintain a demonstrable separation of respective roles and responsibilities. The Council as a body must be extremely mindful of its responsibilities as an employer. The actions of individual councillors can have a positive or detrimental effect on the position of the Council in this legal relationship, and councillors should act accordingly in their dealings with all members of staff. This is the fundamental principle which dictates that councillors should not take any action which, without appropriate approval by the Town Council,

³² Such allegations would need to be addressed to the Conservative Party

intentionally or unwittingly appears to be them representing the Town Council as a body.

- 6.5 Having said that, a wholly mechanistic and rigid decision-making process can be unrealistic. In practice therefore, there are situations where a councillor (and/or the Town Manager) can reasonably act in a delegated capacity e.g. contacting organisations for fact finding to better inform a debate before a decision is made. This includes situations where councillors have specific practical or professional knowledge. In principle then, it is not unacceptable for the Chair of a Council to directly contact other organisations such as auditors, IT suppliers etc. However, this is all about intent and the reason for bypassing the relevant officer.
- 6.6 In my view Councillor Gosling, with the support of Councillor J Farmiloe and Councillor Harrison-Hicks, had no reason to contact either the external or internal auditor given that the Town Manager had already updated them with regards the Annual Return; in choosing to do so Councillor Gosling undermined the Town Manager in a manner that demonstrated his lack of trust in her. Councillor Harrison-Hicks also contacted (and appears to have been very critical to/about) the Town Council's IT contractors without the necessary authority and about a matter that it turned out was wholly unrelated to the terms of their contract. Finally, the involvement of both Councillor Gosling and Councillor Harrison-Hicks with the leaseholder of the Café is a clear example of the potential legal and financial risks to the Town Council of councillors interfering for the wrong reasons in significant areas of business. While I accept that they may well have the tenant's interests at heart, their conduct was disruptive, created wholly unnecessary concerns in the mind of the tenant and undermined the operation of the Town Council.
- 6.7 The willingness of Councillor Gosling to act without the necessary authority of the Town Council is best exemplified by the way in which he dealt with the complaint against Ms Lacey. While I do have some sympathy for his position, in that it was a serious allegation against the one person in the Town Council who normally deals with any complaints received, his decision to commit the Town Council to the expenditure of an investigation was a blatant breach of his responsibilities as a councillor. In my view the decision, seemingly taken collectively by Councillor Gosling, J Farmiloe and Harrison-Hicks, to then circulate the report to all councillors without the consent of the Town Manager or reference to the Employment Sub-Committee, was in my view a likely breach of good governance, due process and the fair treatment of an employee. The fact that this occurred on the same day as councillors were due to consider Councillor Gosling's wife's conduct at an extra-ordinary meeting strikes me as being more than a co-incidence.
- 6.8 Further to the above, in adhering to the principles set out in the Code there is an expectation that members will not disclose information given to them in confidence / information that the Town Council expects them to keep confidential unless certain conditions apply. Councillors can find that as part of their role they get access to a great deal of information which is confidential, either because it is personal information, or because it is commercially

sensitive, or it is information which would not otherwise be placed in the public arena/domain. The handling of confidential information is an essential element in the relationships of trust that should exist between councillors and the Town Council; a mishandling of such information and/or its accidental or deliberate disclosure is likely to damage trust.

- 6.9 I make no criticism of Councillor Gosling, J Farmiloe or Harrison-Hicks for contacting Mr Leggo or HR Partnership Services to seek advice on matters relating to Town Council business; it is important that councillors feel that they can seek advice from relevant professionals if they have any concerns. I do not though accept that Councillor Harrison-Hicks' correspondence with Mary Mears falls within that category. Councillor Harrison-Hicks has already been sanctioned for disclosing confidential information and yet she continues to have no qualms about sending Mary Mears confidential details concerning Town Council employees and business. Further, all three members appear comfortable discussing matters pertaining to Town Council business and its employees publicly.
- 6.10 I note that Councillor Harrison-Hicks believes that her emails to Mary Mears (and the email to Trevor Leggo) represent a legitimate way of obtaining advice and sharing concerns. My concern is not only that Councillor Harrison-Hicks seems to believe that sharing Town Council information with individuals within the Conservative Group (regardless of whether they are a Town councillor or not) is acceptable; it is that fact that her emails also contain numerous examples of gossip and innuendo, some of which could be claimed to be defamatory about Claire Lacey.
- 6.11 It is my view that councillors are entitled to let other members and the Town Manager know if they are concerned that, for instance, Council resolutions have not been actioned properly or that tenants are not being sufficiently supported. In my view, robust language can sometimes be appropriate to ensure that matters are dealt with properly; Ms Lacey is the most senior officer in the Town Council and as such would be expected to be able to handle robust challenge from members. In my view though Councillor Harrison-Hicks emails as shown above, both to and about Claire Lacey, represent unreasonable and demeaning behaviour. Further, Councillor Gosling made a serious error of judgement when deciding to angrily raise matters in relation to the Café with Ms Lacey immediately after his wife's altercation with her; in my view his behaviour toward Claire Lacey on **23 March 2018** represents wholly unacceptable conduct.
- 6.12 The behaviour of the three councillors towards and about Claire Lacey leads me to inevitably conclude that there has been a collective effort to undermine her position with a view to removing her from her post. I place particular weight on the evidence provided by Trevor Leggo, who was clear that Councillor Harrison-Hicks has indicated on more than one occasion that the Town Manager must go. In considering their conduct, it would be remiss of me not recognise that Claire Lacey cannot be seen as entirely blameless for the current difficulties the Town Council faces. It is not within the scope of this investigation to consider in any detail the concerns raised by Councillors

Gosling, J Farmiloe and Harrison-Hicks about Ms Lacey. I think it is fair to say though that while I have no doubt that the culture change her appointment seems to have brought about may well have caused individual resentments regardless of her manner, the consistent evidence we received is that the way in which she conducts herself has the capacity to generate discord with individuals both within and outside the Town Council. That said, the behaviour of the councillors towards and about her has been almost wholly disproportionate and disrespectful. If councillors have legitimate concerns about the way in which the Town Manager conducts herself then there are policies and procedures that must be followed.

- 6.13 To conclude, it is my view that the investigation has found substantial evidence to support the allegation that the Code of Conduct has been breached. The Town Council has a duty of care to its employees and I believe that the conduct of Councillors Gosling and Harrison-Hicks in particular creates a risk to the Town Council in relation to employment law; most obviously a potential claim for constructive dismissal. Further to that, there is evidence to suggest that all three councillors have failed to follow proper procedures, taken action on behalf of the Town Council without the necessary authority and inappropriately disclosed / discussed confidential information. A failure to follow correct procedures and respect the rules of local government risks badly damaging the reputation of the Authority as a whole. As a further example, the creation of a bank account by Councillor J Farmiloe to deposit money raised for charitable purposes creates an almost inevitable danger of her actions being perceived as based on financial self-interest, even if they were not.
- 6.14 In considering what action the District Council should take about the above though, I do not consider that a pursuing this matter to a hearing would resolve the underlying issues, assist the smooth running of the Council or represent a meaningful use of public resources. The District Council's "Arrangements for dealing with complaints about councillor conduct" states that if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.
- 6.15 The concerns detailed above are wide ranging and I am not sure that the implementation of any of the limited sanctions on offer will particularly assist the Town Council in resolving them, particularly as two of the councillors have now resigned. I consider there to be evidence of longstanding personal conflict and poor working relations between certain elected members and Town Council officers. In addition, I have detected a less than full understanding of the norms for officer/member relations and their respective powers and responsibilities. There is no doubt that this is having a detrimental effect on the individuals involved and the functionality of the Town Council. Further, during the course of this investigation I have been made aware that former officers within the Town Council have expressed concerns about the way that they have been treated both by members and the Town Manager. Whilst making no comment on the veracity of these complaints, the Town Council as a whole emerges from this investigation looking like both a poor employer and an unattractive prospect for

anyone considering becoming involved as a councillor. This presents a very real risk for future recruitment and retention at officer and councillor level.

6.16 In order to address these concerns, it is my view that the Monitoring Officer seek an informal resolution to this complaint by recommending that the Town Council implement an action plan that involves making the necessary training, conciliation and mentoring available to all Town Council members and officers. These problems are affecting the entire Council and therefore it appears most appropriate that all members and officers are involved in their resolution.

6.17 In my view the plan should include the following:

- The appointment of an external person / consultancy with the relevant professional skills to review the Town Council's processes and procedures. This should include a review of the role of the Employment Sub-Committee and how complaints senior officers should be dealt with in the future.
- The implementation of an explicit, pragmatic and rational Scheme of Delegation that also sets out how any breaches of this should be dealt with appropriately and expeditiously. A good Scheme of Delegation will facilitate more efficient processes for conducting council business, will improve openness and accountability and will streamline decision-making and action for the benefit of residents.
- The training / mentoring of officers and councillors to identify and rectify any weakness in their understanding of the Town Council's procedures and the Code. The Town Council might want to take the opportunity to review their current Code as in my view a Code that consists solely of the Nolan principles can lack the detail necessary to assist members in understating their responsibilities.
- Training and guidance on conflict resolution with a view to improving working relations between elected members and Town Council officers through more effective communication and improved conduct. As part of this process I would recommend that all parties work together on reviewing their Member / Officer protocol to ensure that it is fully understood, and ingrains agreed parameters.

6.18 The purpose of the action plan is three-fold. Firstly, a review of the Town Council's governance should give all councillors and officers confidence that the right tools are in place to allow the Town Council to operate effectively. Secondly, the training and guidance provided should seek to address any weaknesses in an individual's understanding of the Council's procedures; its administrative requirements; its standing orders, the Code of Conduct and local government practice more generally. It should also seek to improve the skills of members in understanding the extent and limits of their respective roles, and in working together with officers for the benefit of the community. Thirdly, the training on conflict resolution should seek to improve the skills of members and the clerk in more effectively dealing with and resolving conflict. It is hoped that

this will avoid the Council's time and resources being wasted on personal conflicts and arguments.

- 6.19 It is hoped that by implementing this action plan any personal conflicts will be resolved, acceptable standards of behaviour will be established, and the Town Council will run in a proper manner that will command the respect of the community. In considering whether this decision might result in unfairness either to Claire Lacey or the respective councillors who were complained about³³, I have prioritised the overriding need to improve the functioning of the Town Council. The decision to take informal action should in no way lessen the gravity of the serious conduct issues highlighted in this report. Based on the information provided to me though I firmly believe that this recommendation is necessary to ensure that the Council functions effectively in the future and that this constructive process is in the public interest, and therefore in the interests of the complainant and member themselves.
- 6.20 A copy of this report should be provided to the District Council's Audit and Standards Committee. I would recommend that the Committee seek an update from the Town Manager after 3 and then 6 months to assess the success of otherwise of the action plan.

³³ It should be noted that if my recommendations are accepted, the councillors involved will not have been formally found to have failed to comply with the Code of Conduct or be afforded the opportunity to 'clear their name' at a hearing.

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Report To:	Audit and Standards Committee
Date:	19 November 2018
Report Title:	Interim Report on the Council's Systems of Internal Control 2018/19
Report of:	David Heath, Head of Audit and Counter Fraud
Ward(s) Affected:	All
Purpose of report:	To inform Councillors on the adequacy and effectiveness of the Council's systems of internal control during the first seven months of 2018/19, and to summarise the work on which this opinion is based
Officer recommendation:	To note that the overall standards of internal control were generally satisfactory during the first seven months of 2018/19 (as shown in Section 2)
Reasons for recommendation:	The remit of the Audit and Standards Committee includes the duties to agree an Annual Audit Plan and keep it under review, and to keep under review the probity and effectiveness of internal controls, both financial and operational, including the Council's arrangements for identifying and managing risk
Contact Officer:	Name: David Heath Post title: Head of Audit and Counter Fraud E mail: David.Heath@lewes-eastbourne.gov.uk Telephone number: 01273 085157

1 Introduction

- 1.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) has, with the other governing bodies that set auditing standards for the various parts of the public sector, adopted a common set of Public Sector Internal Audit Standards (PSIAS) that were first applied from 1 April 2013. The PSIAS have been updated, with new standards published in March 2017. The new standards are not materially different from the previous version, and so have not been separately reported to the Committee.
- 1.2 The PSIAS 2017 continue to specify the requirements for the reporting to the Audit and Standards Committee and senior management by the Head of Audit and Counter Fraud (HACF). These requirements are met via a series of reports, including interim reports to each meeting of the Committee.
- 1.3 Each interim report includes a review of the work undertaken by Internal Audit compared to the annual programme, an opinion of HACF on the internal control, risk management and governance environment at the Council, together with any significant risk exposures and control issues, in the period since the beginning of the financial year. Each interim report contains an appendix that includes an outline

of each of the final audit reports issued since the previous meeting of the Committee, and an appendix that outlines any significant recommendations that have not yet been implemented.

- 1.4** In September 2015, Cabinet approved a strategy for the development of shared services between Lewes District Council (LDC) and Eastbourne Borough Council (EBC) based on the integration of the majority of council services via a Joint Transformation Programme (JTP). The formal integration of the Internal Audit and Counter Fraud Teams in both councils took place on 1 July 2017.

2 Internal Control Environment at Lewes District Council

- 2.1** The Annual Report on the Council’s Systems of Internal Control for 2017/18 was presented to the July meeting of the Committee. The report included the opinion of HACF that the overall standards of internal control are generally satisfactory. This opinion is based on the work of Internal Audit, the internal assurance framework, external reviews, and the Council’s work on risk management. In the seven months since the start of the financial year there has been nothing to cause that opinion to change and there have been no instances in which internal control issues created significant risks for Council activities or services.

3 Internal Audit work 2018/19

- 3.1** Table 1 shows that a total of 409 audit days have been undertaken compared to 399 days planned in the first seven months of the year.

Table 1: Plan audit days compared to actual audit days for April to October 2018

Audit Area	Actual audit days for the year 2017/18	Plan audit days for the year 2018/19	Actual audit days to date	Pro rata plan audit days to date
Main Systems	347	308	297	
Central Systems	67	65	40	
Departmental Systems	3	87	1	
Performance and Management Scrutiny	34	30	11	
Computer Audit	5	25	3	
Management Responsibilities/Unplanned Audits	101	158	57	
Total	557	673	409	399

Note: The ‘Pro rata plan audit days to date’ provides a broad guide to the resources required to carry out planned audits. The actual timing of the individual audits will depend on a variety of factors, including the workloads and other commitments in the departments to be audited.

The variance of 10 days has arisen from the team’s focus on the submission of the HB subsidy claim, which has meant fewer days spent on annual leave and training than had been expected at this stage of the year (see 3.4 – 3.5). It is estimated that the audit days will be closer to plan by the year end.

- 3.2** This section of the report summarises the work undertaken by Internal Audit, compared to the annual plan that was presented to the Audit and Standards Committee in March 2018. Further information on each of the audits completed since the previous meeting of the Committee is given at Appendix A1.

- 3.3 Main Systems:** The key work has been on the testing of the major financial systems in order to gain assurance on the adequacy of internal controls for the Annual Governance Statement (AGS) and to inform BDO's work on the Council's accounts for 2017/18. The testing is completed and a final report has been issued. The results have contributed to the overall opinion given by HACF (see Section 2 above).
- 3.4** The work on behalf of BDO to test the Council's HB subsidy claim 2016/17 has been the other main priority and is now complete. BDO had identified the need for significant additional testing to address the issues noted in the 2015/16 claim and other errors noted in the current claim. The timetabled date for BDO to sign off and submit the audited claim was the end of November 2017 but, because of the significant extra work required and BDO's other commitments, the claim was submitted in the last week of September 2018.
- 3.5** The corresponding exercise to test the Council's HB subsidy claim 2017/18 is now the main priority and the work is underway. The results from the initial sample testing have helped to inform BDO's work on the Council's 2017/18 accounts. BDO have identified the need for significant additional testing to address the issues noted in the 2016/17 claim, but BDO are looking at ways to try to shorten the timetable for this exercise.
- 3.6 Central Systems:** The annual audit of Ethics is at the draft report stage. This is a light touch review – because of the generally satisfactory situation noted over the last two audits the focus of the 2018 review is on the implementation of the recommendations from the previous report. An audit of Safeguarding at both councils has been completed by audit personnel in Eastbourne, and a final report has been issued. The initial planning for a review of joint ventures and Council owned companies was done in 2017/18 – the review has been completed and is at the draft report stage.
- 3.7 Departmental Systems:** The audit of Estates Management, incorporating work on the corresponding function at EBC, began in 2017 but was put on hold to free resources for the work on the HB subsidy claim and the testing of the main financial systems - the audit has been completed by audit personnel in Eastbourne and a final report has been issued. An audit of Licensing is at the planning stage, with the fieldwork to begin shortly.
- 3.8 Performance and Management Scrutiny:** The initial work in this category was the review of the data that supports the Annual Governance Statement (AGS) for 2018, with the main task being the examination of the revised Strategic Risk Register.
- 3.9 Computer Audit:** Internal Audit has examined the IT aspects of the main financial systems and has begun the implementation of . An audit of Cyber Security is at the planning stage.
- 3.10 Management Responsibilities/Unplanned Audits:** This category provides resources for activities such as support for the Audit and Standards Committee, managing the Counter Fraud Team, liaison with BDO, managing the Follow Up procedures, as well as for special projects or investigations.

- 3.11** CMT requested Internal Audit to carry out an assurance review to support the establishment of the newly configured Health and Safety (H&S) service. The review includes site visits to two key service areas – the Eastbourne Crematorium and the Waste and Recycling (W&R) service for LDC. A final interim report was issued on the W&R aspects of the review, and the results of the H&S review of the crematorium have been included in a draft report that also covers other aspects of the Bereavement Services at the location. Internal Audit has also carried out a review of the management of statutory building compliance at both councils; an interim report was issued in June 2018, with a final report issued during October 2018.
- 3.12** Internal Audit has coordinated the Council's work on the NFI data matching exercise that began in 2016. The Council received over 2,000 separate matches detailed across 93 reports, each report setting out different types of potential frauds among benefit claimants, housing tenants, and anyone receiving payments or discounts from the Council. The exercise has involved analysis of the matches to identify those that are the result of error or coincidence, and then the examination of the remaining matches to assess the likelihood of fraud - 335 matches have been examined, with no fraud or error noted. Because the work is resource intensive and services have experienced staffing issues during the JTP process, the investigation of matches was being done in Internal Audit but not as a priority task. That work has now ceased.
- 3.13** The preparations for the 2018 NFI exercise are underway, with the Counter Fraud Investigations Manager in Eastbourne taking the coordination role for both councils. The necessary data downloads have been submitted and a targeted approach to the examination of reported matches will be in place when the matches are received in February 2019.

4 Follow up of Audit Recommendations

- 4.1** All audit recommendations are followed up to determine whether control issues noted by the original audits have been resolved. The early focus for follow up in 2018/19 has been on confirming the implementation of the recommendations that had been agreed in the previous year.

5 Quality Reviews/Customer Satisfaction Surveys/Performance Indicators (PIs)

- 5.1** The results of the Internal Audit quality reviews and customer satisfaction surveys for 2017/18 were reported to the July meeting of the Committee. The results enabled the HACF to report that the Internal Audit service at Lewes achieves its aims, and objectives, and operates in accordance with the Internal Audit Strategy as approved by the Audit and Standards Committee.
- 5.2** As part of the standardisation of the Internal Audit service at both Lewes and Eastbourne, HACF is examining the range of PIs that will cover the shared service. The proposals for the shared PIs are presented separately to this meeting of the Committee.

6 Peer Review

- 6.1** The External Peer Review of LDC Internal Audit has been completed. The review was carried out by the Principal Auditor at Chichester District Council. The overall results of the review are that the LDC Internal Audit service generally conforms to the standards set by PSIAS 2017.
- 6.2** The Peer Review examined the service in four key sections – Purpose and positioning; Structure and resources; Audit execution; Impacts – comparing service activities to the statements of good practice contained within the PSIAS. The review also took account of the results from the client questionnaires sent to CMT, Heads of Service and the Chair of the Audit and Standards Committee.
- 6.3** The review found that the Internal Audit service fully complies with 43% of the statements of good practice and, for the remainder, complies with the PSIAS requirements in all material respects. The exceptions were in areas such as annual appraisals, succession planning, and the rotation and technical development of audit staff who are not professionally qualified. No remedial action is planned because the service complies with Council policies in these areas, but these do not meet PSIAS requirements in all respects.
- 6.4** Where the service is planning remedial action is in completing the audit manual which is in the processing of being re-worked following the merger with Eastbourne Borough Council. The work is underway, and includes the recent procurement of the Pentana audit management system, but no target date for completion has been set. In another area, the service commits to more regular team meetings to facilitate the transfer of knowledge between team members.

7 Combatting Fraud and Corruption

Local initiatives

- 7.1** The Investigation Team is a member of the East Sussex Fraud Officers Group (ESFOG), a body that enables information sharing and joint initiatives with neighbouring authorities on a wide range of counter fraud work. Since 2014/15, a sub group of authorities within ESFOG, including LDC and EBC, have been working as a 'Hub' to coordinate new counter fraud initiatives across East Sussex.
- 7.2** The Hub has been administered by officers at Eastbourne, with input from ESFOG partners as appropriate. Lewes and Eastbourne Counter Fraud activities have benefitted from Hub funding in the provision of training, the introduction of a shared case management system, a shared approach to publicity for Hub activities, and the set-up of an on-line system to allow the public to report suspected frauds.
- 7.3** Hub partners have agreed to wind down Hub activities and for it to no longer exist as a formal entity. Hub funds have been set aside to cover known future commitments, with the balance divided among members to fund local Counter Fraud initiatives. Counter Fraud staff in the member authorities continue to share information and liaise on individual cases.

Counter Fraud Team

- 7.4** At present, countering housing tenancy fraud and abandonment, and preventing RTB fraud, are the main operational priorities for the Counter Fraud Team at Lewes because of the evidence of this being a high risk area for the Council. There are 20

cases of suspected abandonment and/or subletting under investigation, plus two of suspected housing application fraud. Five properties have been returned to stock after joint action by officers in Housing, Legal Services and Counter Fraud to address cases of abandonment or anti-social behaviour. Further property returns are anticipated in current cases where evidence gives a strong indication that the tenant no longer lives at the property.

- 7.5** Since April 2018, 25 new RTB applications have been received for checking to prevent fraud and protect the Council against money laundering. In the same period, 17 RTB applications have been approved and passed for processing, and 13 applications are currently under review. In the same period, seven RTB applications have been withdrawn or closed after intervention by the team. The team will assess these applications to determine whether the cases indicate potential fraud.
- 7.6** Audit and Counter Fraud has in place an agreement with DWP for the management of cases of HB fraud. The major work on each HB case is the responsibility of the national Single Fraud Investigation Service (SFIS) within DWP. LDC retains a role in referring cases of suspected HB fraud to SFIS and handling requests for information. A member of that Eastbourne Counter Fraud team carries out the DWP liaison work for LDC and thus allows the LDC team to focus on case work in other areas. In the period since April 2018, there have been seven referrals to SFIS, and 24 information requests have been actioned.

8 Risk Management

- 8.1** Cabinet approved the Risk Management Strategy in September 2003. Since then risk management at the Council has been developed via a series of action plans, with the result that all the elements of the risk management framework set out in the strategy are in place and are maintained at best practice standards.
- 8.2** The Annual Report on Risk Management and the Strategic Risk Register was presented to the March 2018 meeting of the Committee, and subsequently to the Cabinet. The risk management process has identified that most risks are mitigated by the effective operation of controls or other measures. However, there are some risks that are beyond the Council's control, for example a major incident, a 'flu' pandemic, a downturn in the national economy or a major change in government policy or legislation. The Council has sound planning and response measures to mitigate the effects of such events, and continues to monitor risks and the effectiveness of controls. The overall satisfactory situation for risk management has helped to inform the opinion on the internal control environment.
- 8.3** CMT has reviewed the Strategic Risk Register, and the results of the review were reported to the September 2018 meeting of the Committee.
- 8.4** In response to reductions in Government funding for local authorities, the Council continues to make savings each year in its General Fund (which covers all services except the management and maintenance of Council owned homes). At its meeting in February 2018, Council agreed a net budget of £11.82m for 2018/19 including a savings target of £1.03m – of this, £0.70m is to be delivered by Phases 2 and 3 of the JTP and £0.20m from increasing commercial income streams. The 2018/19 budget is to be seen in the context of a Medium Term Finance Strategy that will

require an additional £0.73m of savings in the net budget by 2021/22, including £0.30m from the JTP.

- 8.5** There are also pressures to reduce spending on the management and maintenance of Council owned (HRA) housing. Starting in 2016/17, the Government has required all housing authorities to reduce tenants' rents by a 1% in cash terms in each of the four years through to 2019/20. As a result, by 2019/20, total annual rent income will have fallen by £0.6m to £14.4m. This means that savings of £2.2m will be needed to offset the expected impact of inflation on expenditure budgets over that period. A share of the JTP savings will pass through to the HRA, and the 2018/19 HRA budget has been reduced by a target of £0.30m accordingly.
- 8.6** HACF will continue to monitor the impact on the control environment of the JTP, and will liaise with managers who are working to ensure that the control environment keeps pace with these changes.

9 System of management assurance

- 9.1** The Council operates a management assurance system, which enabled senior officers to confirm the proper operation of internal controls, including compliance with the Constitution, in those services for which they are responsible. As part of this process senior managers are required to consider whether there were any significant governance issues during 2017/18. None were reported and, at its meeting on 26 June 2018, CMT confirmed that there were no significant governance issues to report.

10 Corporate governance

- 10.1** The Council is required to produce an Annual Governance Statement (AGS), which outlines the main elements of the Council's governance arrangements and the results of the annual review of the governance framework including the system of internal control. The AGS for 2018 was presented to the July 2018 meeting of the Audit and Standards Committee.

11 External assurance

- 11.1** The Government relies on external auditors to periodically review the work of the Council to make sure it is meeting its statutory obligations and performing well in its services. The Council's current external auditors are BDO, and the results of their external reviews have helped inform the opinion on the internal control environment.
- 11.2** Audit Completion Report (September 2018) – This report summarised the key issues from work carried out by BDO during the year ended 31 March 2018. When the report was published it represented an interim position because BDO were in the process of completing the audit – the Council had not prepared the draft and final Statement of Accounts in accordance with the new statutory deadlines. The interim key issues highlighted in the report overview section were:
- BDO had not identified any significant audit risks since the presentation of their Audit Plan in February 2018, and there were no significant changes to the planned audit approach.

- BDO had not identified any material misstatements, although the audit was still in progress and could result in audit differences.
- BDO were satisfied that, despite the recognised funding gap in the Medium Term Financial Strategy (MTFS), the Council has appropriate arrangements to remain financially sustainable over the period of the MTFS. All the required savings for 2018/19 had been identified.
- BDO anticipated issuing an unmodified opinion on the arrangements to secure economy, efficiency and effectiveness in the use of resources.
- Subject to successful completion of outstanding work, BDO anticipated issuing an unmodified opinion on the Council's financial statements, and on the consistency of other information in the Statement of Accounts with the financial statements.

11.3 Future external audit arrangements

11.4 Under the provisions of the Local Audit and Accountability Act 2014, the Secretary of State for Communities and Local Government has specified that a company, Public Sector Audit Appointments (PSAA) Limited, will appoint auditors to local government, police and some NHS bodies.

11.5 The Council has opted into the PSAA arrangements, and was consulted on the appointment of the external auditor for the period of five years from 2018/19. PSAA have appointed Deloitte LLP, and the Council responded to the consultation to confirm its acceptance of the appointment, which started on 1 April 2018. Deloitte LLP will also be the external auditors for EBC.

11.6 BDO is finalising the audit of the 2017/18 accounts and is carrying out the audit of the 2017/18 HB subsidy claim, and will therefore be working with the Council for some months into 2019. HACF obtained cost quotations from Deloitte LLP and other companies for the independent check and sign off of the HB subsidy claim exercises after the BDO contract has ceased. Deloitte LLP have been appointed to this role for the 2018/19 HB subsidy claim.

12 Financial Appraisal

12.1 There are no financial implications arising from the recommendations in this report other than those already contained within existing budgets.

13 Legal Implications

13.1 There are no direct legal implications arising from this report.

14 Risk Management Implications

14.1 If the Council does not have an effective risk management framework that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard Council assets and services, and it could be subject to criticism from the Council's external auditor or the public.

15 Equality analysis

15.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

16 Background Papers

Report to the Audit and Standards Committee – Annual Audit Plan 2018/19, 19 March 2018

[2018/19 Annual Audit Plan](#)

17 Appendices

17.1 Appendix A1 - Statement of Internal Audit work and key issues.

17.2 Appendix A2 - Table of abbreviations.

17.3 There is no Log of Significant Outstanding Recommendations (normally Appendix B) for this report.

APPENDIX A1

Statement of Internal Audit work and key issues.

Audit Report: Management of Statutory Compliance in the Corporate Property Portfolio

Date of issue: 24 October 2018

Introduction

Internal Audit has carried out a review of the procedures and controls within Property and Facilities Shared Service (PFSS) that ensure the corporate properties of EBC and LDC maintain statutory compliance. The review was requested by the Director of Regeneration and Planning

The Internal Audit review complemented a related review by consultants from AECOM Limited (Clear Sustainable Futures). The Director of Regeneration and Planning requested that AECOM carry out an urgent investigation of compliance at a small sample of four corporate properties in response to concerns about remedial works raised by the then Head of Service for PFSS. The initial AECOM investigation was extended to cover a total of 30 buildings within the property portfolios of Eastbourne Borough Council and Lewes District Council. AECOM issued a final report in May 2018, and the findings of the AECOM review have informed the corresponding work by Internal Audit.

Internal Audit issued an interim statement of key issues from the review in June 2018. The review has been completed after some further work to obtain an up to date position following changes in the senior staffing in August 2018. These changes include the appointment of a new Interim Head of Service for PFSS.

Summary of findings

From the audit work carried out during this review, Internal Audit has obtained partial assurance that the management and control of statutory compliance have been sufficient to achieve compliance in all properties. Compliance testing is being regularised via contracts with external test companies and records of test results are being improved, although some gaps remain. A major issue is that there has been a lack of evidence that remedial work identified as necessary by previous testing has been carried out, and there is a concern over the management processes to prioritise, plan and monitor essential repairs. It is likely that some essential remedial work was not done. This situation was started to be rectified after the publication of the AECOM report.

The management processes and structures within PFSS have not been effective in dealing with the situation outlined above. There is evidence of action being taken recently - in the period of the AECOM review and after the publication of the AECOM report – to address a range of management and control issues.

There has been limited management reporting on the compliance situation with the regular reporting to the Strategic Property Boards (SPBs) focussed on the positive developments in testing, but without sufficient reference to the known concerns over remedial work. Only

very recently have these gaps in reporting been addressed.

The Internal Audit report included five recommendations to address the issues noted by the review. The Interim Head of Service for PFSS has accepted the recommendations, and provided outlines of how the issues will be addressed.

APPENDIX A2

Table of abbreviations

AGS – Annual Governance Statement
BDO – BDO, the Council’s external auditors. Formerly BDO Stoy Hayward
CIPFA – Chartered institute of Public Finance and Accounting
CMT – Corporate Management Team
CTRS – Council Tax Reduction Scheme
DCLG – Department for Communities and Local Government
DWP – Department of Work and Pensions
EBC – Eastbourne Borough Council
ESFOG – East Sussex Fraud Officers Group
ESPB - East Sussex Prevent Board
GDPR - General Data Protection Regulation
HACF – Head of Audit and Counter Fraud
HB – Housing Benefit
HRA – Housing Revenue Account. Refers to Council owned housing
HSO – Health and Safety Officer
ISO – International Organisation for Standardisation
IT – Information Technology
JTP – Joint Transformation Project
LATC – Local Authority Trading Company
LDC – Lewes District Council
LLP – Limited Liability Partnership
NDR – Non Domestic Rates
NFI – National Fraud Initiative
PFSS - Property and Facilities Shared Service
PIs – Performance Indicators
PSIAS – Public Sector Internal Audit Standards
PSAA - Public Sector Audit Appointments
QAIP – Quality Assurance and Improvement Programme
RTB – Right to Buy
SFIS – Single Fraud Investigation Service
SPB - Strategic Property Boards
WGA – Whole of Government Accounts
W&R – Waste and Recycling

Agenda Item 8

Report To:	Audit and Standards Committee
Date:	19 November 2018
Report Title:	Internal Audit Key Performance Indicators (KPIs)
Report of:	David Heath, Head of Audit and Counter Fraud (HACF)
Ward(s) Affected:	All
Purpose of report:	To inform Councillors of the results of research into performance indicators for internal audit functions and include proposals for a revised set of indicators for the shared internal audit service for both councils
Officer recommendation(s):	<ol style="list-style-type: none">1) To note the results of the research and the proposals for change.2) To approve the proposed set of performance indicators, noting that they include some of the previous set of indicators at LDC and selected items from the annual benchmarking exercise with other internal audit services at local authorities in East Sussex
Reasons for recommendations:	The remit of the Audit and Standards Committee includes a duty to review whether the Audit and Counter Fraud service is adequately resourced and is able to discharge its functions effectively
Contact Officer:	Name: David Heath Post title: Head of Audit and Counter Fraud E mail: David.Heath@lewes-eastbourne.gov.uk Telephone number: 01273 085157

1 Introduction

- 1.1 The Audit and Standards Committee have received Key Performance Indicators (KPIs) for Internal Audit since 2001. The previous revision to the KPIs was agreed by the Committee at its meeting in September 2013. Since then, the Committee has received forecast and actual results for the KPIs as part of the Annual Report on the Performance of Internal Audit.
- 1.2 The Internal Audit section at both Eastbourne and Lewes were members of the Sussex Audit Group (SAG), which was established to enable internal audit functions within public bodies in East and West Sussex to share best practice. The shared service continues to be a member of SAG. SAG used to conduct an annual benchmarking exercise to compare internal audit performance across a range of PIs and other measures, and the results were reported annually to this Committee. SAG no longer operates the benchmarking exercise.
- 1.3 The creation of the shared service for Audit and Counter Fraud in July 2017 necessitates changes in the way that performance data is presented to the

respective Committees charged with overseeing the work of Internal Audit at Eastbourne and Lewes. Specifically, Internal Audit at Eastbourne did not provide comparable performance data to the Audit and Governance Committee, and the proposed introduction of KPIs needs to acknowledge that situation. Also, the introduction of Civica Authority Financial Information System (CAFI) in Lewes has meant changes in ways that financial data is presented.

- 1.4 The HACF had previously advised the Committee that he would explore possible alternative KPIs that would adapt the range of performance data available.

2 Key performance indicators applied to internal audit services

- 2.1 HACF has examined the KPIs that are applied to internal audit services in other local authorities. This research has included a review of the KPIs that are recommended as best practice by professional accounting bodies such as CIPFA.

- 2.2 There are no formal requirements for the KPIs that are to be applied to internal audit but, as might be expected, there is a degree of uniformity in the KPIs that are recommended for the function. The detail of the individual indicators may vary slightly across organisations in the different sectors, but there tends to be a focus the following aspects of internal audit activities.

Input of resources

Costs

Productivity and process efficiency

- 2.3 HACF has looked to concentrate the range of performance information that is made available within this framework, and has focussed on those indicators for which performance and results are within the control of managers in the service. For example, previous KPIs included indicators seeking to measure the value of the service, compliance with standards and the degree of influence. HACF has chosen to use the results of the client questionnaires sent to senior officers and the Chair of the Audit and Standards Committee for data on these aspects.
- 2.4 The revised list of proposed KPIs is shown at Appendix A. The KPIs will cover the shared service in total, and there will not be separate results for staff working at Eastbourne and Lewes. Once agreed, the KPIs will form the basis of annual reporting on Internal Audit performance as was the case previously. The annual report will also cover the results obtained from client questionnaires.
- 2.5 The proposed KPIs cover both Internal Audit and Counter Fraud functions, but not to the same extent. HACF does not consider it appropriate to have activity or results targets for Counter Fraud because of the reactive nature of much of the work, and so the focus is on service resources and costs.
- 2.6 Once agreed, HACF will review the KPIs and the client questionnaires on a regular basis to ensure that they remain relevant and provide useful data for monitoring and governance purposes. Any future changes to the KPIs will be subject to consultation with the Committee.

3 Financial Appraisal

3.1 There are no financial implications arising from the recommendations in this report other than those already contained within existing budgets.

4 Legal Implications

4.1 There are no direct legal implications arising from this report.

5 Risk Management Implications

5.1 The recommendations contained in this report are not significant in terms of risk. However, if the Councils does not have an effective Internal Audit function that is properly resourced it will not be able to demonstrate that it can meet statutory requirements or that it has in place adequate means to safeguard Council assets and services.

6 Equality analysis

6.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

7 Background Papers

None

8 Appendices

8.1 Appendix A – Statement of proposed KPIs for the shared Internal Audit service.

8.2 Appendix B – Table of abbreviations

APPENDIX A

Statement of proposed KPIs for the shared Audit and Counter Fraud service.

Performance Indicator			
Internal Audit 1 Staffing FTE 2 Employee costs 3 Total costs 4 Total chargeable days 5 Cost per chargeable day			
Counter Fraud 6 Staffing FTE 7 Employee costs 8 Total costs 9 Total chargeable days 10 Cost per chargeable day			
Internal Audit 11 Number of core systems audits carried out in the year 12 Number of days spent on core audits 13 Number of days in the original annual audit plan 14 Number of days in the revised annual audit plan 15 % of revised annual audit plan carried out			

When the KPI results are reported there will normally be a standard form of presentation (as above) involving target and actual results for the current year, and estimated or target results for the year ahead.

APPENDIX B

Table of abbreviations

AGS – Annual Governance Statement
BDO – BDO, the Council’s external auditors. Formerly BDO Stoy Hayward
CAFI - Civica Authority Financial Information System
CIPFA – Chartered institute of Public Finance and Accounting
CMT – Corporate Management Team
CTRS – Council Tax Reduction Scheme
DCLG – Department for Communities and Local Government
DWP – Department of Work and Pensions
EBC – Eastbourne Borough Council
ESFOG – East Sussex Fraud Officers Group
ESPB - East Sussex Prevent Board
GDPR - General Data Protection Regulation
HACF – Head of Audit and Counter Fraud
HB – Housing Benefit
HRA – Housing Revenue Account. Refers to Council owned housing
HSO – Health and Safety Officer
ISO – International Organisation for Standardisation
IT – Information Technology
JTP – Joint Transformation Project
KPI - Key Performance Indicator
LATC – Local Authority Trading Company
LDC – Lewes District Council
LLP – Limited Liability Partnership
NDR – Non Domestic Rates
NFI – National Fraud Initiative
PFSS - Property and Facilities Shared Service
PIs – Performance Indicators
PSIAS – Public Sector Internal Audit Standards
QAIP – Quality Assurance and Improvement Programme

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LEWES DISTRICT COUNCIL

GRANT CLAIMS AND RETURNS CERTIFICATION

Audit for the year ended 31 March 2017

7 November 2018



INTRODUCTION

PURPOSE AND USE OF THIS REPORT

This report summarises the main issues arising from our certification of grant claims and returns for the financial year ended 31 March 2017.

Public Sector Audit Appointments Ltd (PSAA) regime

PSAA has a statutory duty to make arrangements for certification by the appointed auditor of the annual housing benefit subsidy claim.

We undertake the grant claim certification as an agent of PSAA, in accordance with the Certification Instruction (CI) issued by them after consultation with the Department for Work and Pensions (DWP).

After completion of the tests contained within the CI the grant claim can be certified with or without amendment or, where the correct figure cannot be determined, may be qualified as a result of the testing completed.

Other certification work

A number of other grant claims and returns are not within the scope of our appointment by PSAA, but Departments may still seek external assurance over the accuracy of the claim or return. These assurance reviews are covered by tripartite agreements between the Council, sponsoring Department and the auditor.

The Council has engaged us to carry out a 'reasonable assurance' review, based on the instructions and guidance provided by the Department for Communities and Local Government (DCLG), of the Pooling of housing capital receipts return for the year ended 31 March 2017.

We recognise the value of your co-operation and support and would like to take this opportunity to express our appreciation for the assistance and co-operation provided during our certification work.

AUDIT QUALITY

BDO is totally committed to audit quality. It is a standing item on the agenda of BDO's Leadership Team who, in conjunction with the Audit Stream Executive (which works to implement strategy and deliver on the audit stream's objectives), monitor the actions required to maintain a high level of audit quality within the audit stream and address findings from external and internal inspections. BDO welcome feedback from external bodies and is committed to implementing necessary actions to address their findings.

We recognise the importance of continually seeking to improve audit quality and enhancing certain areas. Alongside reviews from a number of external reviewers, the AQR (the Financial Reporting Council's Audit Quality Review team), QAD (the ICAEW Quality Assurance Department) and the PCAOB (Public Company Accounting Oversight Board who oversee the audits of US firms), the firm undertake a thorough annual internal Audit Quality Assurance Review and as member firm of the BDO International network we are also subject to a quality review visit every three years. We have also implemented additional quality control review processes for all listed and public interest audits.

More details can be found in our latest Transparency Report at www.bdo.co.uk.

KEY FINDINGS

Below are details of each grant claim and return subject to certification by us for the financial year ended 31 March 2017. Where our work identified issues which resulted in either an amendment or a qualification (or both), further information is provided on the following pages. An action plan is included at Appendix II of this report.

CLAIM OR RETURN	VALUE (£)	QUALIFIED?	AMENDED?	IMPACT OF AMENDMENTS(£)
Housing benefit subsidy	£35,126,940	YES	YES	The amendments increased the total subsidy claimed by £678
Pooling of housing capital receipts	£1,964,406	NO	NO	No impact on total housing capital receipts subject to pooling

DETAILED FINDINGS

HOUSING BENEFIT SUBSIDY

Local authorities responsible for managing housing benefit are able to claim subsidies towards the cost of these benefits from central government. The final value of subsidy to be claimed by the Council for the financial year is submitted to central government on form MPF720A, which is subject to certification.

Our work on this claim includes verifying that the Council is using the correct version of its benefits software and that this software has been updated with the correct parameters. We also agree the entries in the claim to underlying records and test a sample of cases from each benefit type to confirm that benefit has been awarded in accordance with the relevant legislation and is shown in the correct cell on form MPF720A.

The methodology and sample sizes are prescribed by PSAA and DWP. We have no discretion over how this methodology is applied.

The draft subsidy return provided for audit recorded amounts claimed as subsidy of £35,126,262. The final submission increased subsidy claimed by £678, to £35,126,940.

FINDINGS AND CONCLUSION

Our audit of 60 individual claimant files highlighted a number of errors the Council made in administering benefit and calculating subsidy entitlement.

Guidance requires auditors to undertake extended 40+ testing if initial testing identified errors in the benefit entitlement calculation or in the classification of expenditure which impacts on subsidy. Such testing is also undertaken as part of our follow-up of prior year issues reported. This additional testing, combined with the original testing where there has been an overpayment of benefit, is extrapolated (or extended) across the population. Where the error can be isolated to a small population, the whole population can be tested and the claim form amended if appropriate. Where there is no impact on the subsidy claim, for example where the error always results in an underpayment of benefit, we are required to report this within our qualification letter.

This resulted in ten areas of 40+ testing, 100% testing on non-HRA cases (129 cases) and five different types of amendments to the claim form (involving around 23 cases). All non-HRA cases were tested as our audit in the prior year identified five types of errors and current year testing identified a further four types of errors in non-HRA cases.

PSAA's methodology requires auditors to re-perform a sample of the additional work undertaken by the Council to ensure conclusions have been satisfactorily recorded. We were able to rely on the conclusions drawn by the Council's internal auditors.

Our work was completed and the claim was certified on 28 September 2018, which was significantly later than the national deadline of 30 November 2017. This was due to the large volume of additional testing required as a result of errors identified in the current year and prior year claim forms.

Our audit certification was qualified and we quantified the effect of the errors identified on the Council's entitlement to subsidy in a letter to DWP. DWP communicated the outcome to the Council on 12 October 2018. Adjustments totalling £49,308 were made to the claim as a result of DWP's review of the audit findings, however as the total level of local authority remained below the threshold, this did not result in any changes to the total amount of subsidy claimed in the final submission.

A summary of our audit findings can be found on the following pages.

DETAILED FINDINGS

BENEFIT TYPE	ERROR TYPE	IMPACT ON CLAIM
ADJUSTMENTS TO THE CLAIM FORM		
Non-HRA rent rebates	<p>Misclassified expenditure above and below LHA rate cap Testing of all Non-HRA rent rebate cases in respect of 2016/17 identified ten cases where expenditure on cases was incorrectly split between cells for expenditure below the LHA rate and expenditure above the upper limit (these cells attract different levels of subsidy).</p>	The claim form was adjusted to move amounts totalling £1,368 between different non-HRA cells.
Non-HRA rent rebates	<p>Incorrectly processed overpayments Testing of all non-HRA cases identified two cases were overpayments had been incorrectly processed.</p>	The claim form was adjusted to move amounts totalling £3,281 between different non-HRA cells.
Non-HRA rent rebates	<p>Misclassified overpayments Testing of all non-HRA cases identified four cases were overpayments were misclassified between LA error and eligible overpayments (these cells attract different levels of subsidy).</p>	The claim form was adjusted to move amounts totalling £2,575 between different non-HRA cells.
Non-HRA rent rebates	<p>Misclassified overpayments Testing of all non-HRA cases identified a case that had both overpayment errors and cap rate errors.</p>	The claim form was adjusted to move amounts totalling £174 between different non-HRA cells.
Modified schemes	<p>Errors in modified schemes Testing of all 14 modified schemes cases identified 6 errors of different types.</p>	The claim form was adjusted to move amounts totalling £8,679 between different cells on the claim form.

DETAILED FINDINGS

BENEFIT TYPE	ERROR TYPE	IMPACT ON CLAIM
QUALIFICATION ISSUES		
Non-HRA rent rebates	<p>Misclassified tenancy types</p> <p>Testing of the initial sample of 20 Non HRA rent rebate cases in respect of 2016/17 identified two cases where the tenancy was incorrectly classified as non-HRA tenancy, rather than HRA rent rebates.</p> <p>Testing of 100% of all non-NHRA rent rebate cases identified a further two misclassifications; one case which related to HRA rent allowances, and one case incorrectly classified as board and lodging or non self-contained licenced accommodation rather than a short term leased or self-contained accommodation.</p>	<p>We reported the net understatement of £458 in our qualification letter.</p> <p>No adjustment was made to the claim form.</p>
HRA rent rebates	<p>Earned income</p> <p>Testing of the initial sample of 20 cases identified one case where earned income had been incorrectly calculated, resulting in an overstatement of benefit of £9.</p> <p>Extended testing of 40 cases did not identify any further overpayments and two underpayments were identified.</p>	<p>We extrapolated the identified error for overpaid benefit over the untested population and reported in our qualification letter an estimated overstatement of subsidy claimed of £249.</p> <p>No adjustment was made to the claim form.</p>
Rent allowances	<p>Occupational pension</p> <p>Testing of the initial sample of 20 cases identified one case where the incorrect occupational pension amount was applied, resulting in an overstatement of expenditure related to cases not requiring referral to the rent officer (which attracts subsidy at full rate) and an understatement of LA error and administrative delay overpayments (which attracts no subsidy) by £83.</p> <p>Extended testing of 40 cases identified one further overpayment of £1.</p>	<p>We extrapolated the identified error for overpaid benefit over the untested population and reported in our qualification letter an estimated overstatement of subsidy claimed of £779.</p> <p>No adjustment was made to the claim form.</p>

DETAILED FINDINGS

BENEFIT TYPE	ERROR TYPE	IMPACT ON CLAIM
QUALIFICATION ISSUES (continued)		
Rent allowances	<p>Rent liability</p> <p>Prior year testing identified one case where rent had not been correctly entered, resulting in overstatement of benefit.</p> <p>No errors where benefit was overpaid as a result of incorrect rent amounts were found in the initial sample of 20 cases tested in respect of 2016/17.</p> <p>Extended testing of 40 cases identified one case where rent had not been correctly entered, resulting in an overstatement of LHA expenditure and an understatement of LA error and administrative delay overpayments (which attracts no subsidy) by £544.</p>	<p>We extrapolated the identified error for overpaid benefit over the untested population and reported in our qualification letter an estimated overstatement of subsidy claimed of £48,099.</p> <p>No adjustment was made to the claim form.</p>
Rent allowances	<p>Childcare costs</p> <p>Prior year testing identified two cases where childcare costs were incorrectly recorded, resulting in an overstatement of benefit.</p> <p>No errors where benefit was overpaid as a result of incorrect recording of childcare costs were found in the initial sample of 20 cases tested in respect of 2016/17.</p> <p>Extended testing of 40 cases identified one case where childcare costs had not been correctly entered, resulting in an overstatement of LHA expenditure and an understatement of LA error and administrative delay overpayments (which attracts no subsidy) by £2.</p>	<p>We extrapolated the identified error for overpaid benefit over the untested population and reported in our qualification letter an estimated overstatement of subsidy claimed of £255.</p> <p>No adjustment was made to the claim form.</p>

DETAILED FINDINGS

BENEFIT TYPE	ERROR TYPE	IMPACT ON CLAIM
OTHER OBSERVATIONS		
Non-HRA rent rebates	<p>Misclassified tenancy types</p> <p>Testing of the initial sample of 20 Non HRA rent rebate cases in respect of 2016/17 identified one case where the tenancy was incorrectly classified as short term leased or self-contained licenced accommodation, rather than board and lodging or non self-contained licenced accommodation</p> <p>Testing of 100% of other non-HRA rent rebates cases identified two further cases which were incorrectly classified.</p>	The Council confirmed the nil subsidy impact, and did not amend the claim form. These cases will be amended in the system in 2018/19 where they remain live.
Non-HRA rent rebates	<p>Underpaid benefit due to incorrect service charges and earned income</p> <p>Testing of the initial sample of 20 Non HRA rent rebates cases identified one case where benefit was underpaid as a result of the Council recording incorrect service charges.</p> <p>Testing of 100% of other non-HRA cases identified a further six cases where benefit was underpaid as a result of the Council recording incorrect service charges, earned income and self-employed earned income.</p>	As there is no eligibility to subsidy for benefit which has not been paid, the underpayment identified does not affect subsidy and was not, therefore, classified as an error for subsidy purposes.
HRA rent rebates	<p>Misclassification between cells</p> <p>Testing of the initial sample identified one case where a non-HRA tenancy was incorrectly classified as an HRA tenancy.</p> <p>Extended testing of 40 cases identified no further errors of this type.</p>	As the detailed cells attract the same subsidy values, there is no subsidy impact.
HRA rent rebates	<p>Errors with no impact on benefit expenditure</p> <p>Prior year testing of rent rebate cases identified a case with the uprating of carer's allowance was applied from the incorrect date. No errors of this type were found in the initial sample of 20 cases tested in respect of 2016/17.</p> <p>Extended testing on 40 cases identified one case where carer's allowance had been incorrectly included.</p>	This error had no impact on housing benefit awarded as this was a passported case because the claimant was receiving employment and support allowance, therefore there was no impact on subsidy.

DETAILED FINDINGS

BENEFIT TYPE	ERROR TYPE	IMPACT ON CLAIM
OTHER OBSERVATIONS (continued)		
HRA rent rebates	<p>Underpaid benefit due to incorrect earned income Extended testing of 40 cases with earned income identified two cases where benefit had been underpaid by a total of £83 as a result of the Council miscalculating earned income.</p>	As there is no eligibility to subsidy for benefit which has not been paid, the two underpayments identified did not affect subsidy and were not classified as errors for subsidy purposes.
Rent allowances	<p>Underpaid benefit due to incorrect rent amounts Testing of the initial sample identified one case where the Council had underpaid benefit by £5 as a result of applying the incorrect rent amount.</p>	As there is no eligibility to subsidy for benefit which has not been paid, the two underpayments identified do not affect subsidy and have not been classified as errors for subsidy purposes.
Rent allowances	<p>Underpaid benefit due to incorrect earned income Prior year testing of rent allowance cases identified cases where earned income had been miscalculated. No errors of this type were found in the initial sample of 20 cases tested in respect of 2016/17. Extended testing on 40 cases identified two cases where benefit had been underpaid as a result of the Council overstating earned income. Testing also identified errors in the recording in two further cases, however these errors did not impact on the amount of benefit paid.</p>	As there is no eligibility to subsidy for benefit which has not been paid, the underpayments identified did not affect subsidy and were not been classified as errors for subsidy purposes.
Rent allowances	<p>Errors with no impact on benefit expenditure Prior year testing of rent allowance cases identified cases where child tax credits were incorrectly applied. No errors of this type were found in the initial sample of 20 cases tested in respect of 2016/17. Extended testing on all 45 cases identified two errors totalling £25 where child tax credit had been entered incorrectly.</p>	These two errors had no impact on housing benefit awarded as one of the cases was a passported case and the income in the other case was below the applicable amount.

DETAILED FINDINGS

POOLING OF HOUSING CAPITAL RECEIPTS

Local authorities are required to pay a portion of any housing capital receipt they receive into a national pool administered by central government. The Council is required to submit quarterly returns notifying central government of the value of capital receipts received.

The return provided for audit recorded total receipts of £1,964,406 of which £408,027 was payable to DCLG.

DCLG requires that this return is certified but the work is not part of PSAA's certification regime. We therefore agreed a separate letter of engagement to provide a reasonable assurance report.

FINDINGS AND IMPACT ON RETURN

Our audit did not identify any issues and the return was certified without qualification or amendment.

APPENDICES

APPENDIX I: STATUS OF 2015/16 RECOMMENDATIONS

RECOMMENDATION	PRIORITY	RESPONSIBILITY	TIMING	PROGRESS	STATUS
We recommend that additional checks are carried out to ensure that tenancies are correctly classified.	High	Head of Planning and Revenues	March 2018	Our audit of the 2016/17 claim found continuing misclassifications in tenancy types, therefore this recommendation has been repeated in Appendix II.	Open
We recommend that additional checks are carried out to ensure that the carer's allowance annual uplifting is applied from the correct date for all HRA rent rebates in 2017/18.	High	Head of Planning and Revenues	March 2018	No issues of this nature were identified in our audit of the 2016/17 claim.	Closed
We recommend that additional checks are carried out to ensure that annual uplifts of applicable amounts of all income types are applied from the correct date, earned income is correctly input, and that childcare costs and rent are correctly recorded for all rent allowances.	High	Head of Planning and Revenues	March 2018	Our audit of the 2016/17 claim found continuing issues in some of these areas, therefore part of the recommendation has been repeated in Appendix II.	Open

APPENDIX II: 2016/17 RECOMMENDATIONS AND ACTION PLAN

CONCLUSIONS FROM WORK	RECOMMENDATIONS	PRIORITY	MANAGEMENT RESPONSE	RESPONSIBLE OFFICER	TIMING
<p>Non-HRA rent rebates Our audit in 2016/17 identified a significant number of issues, including errors in respect of:</p> <ul style="list-style-type: none"> • Misclassified tenancy types • Misclassified expenditure above and below LHA rate cap • Processing of overpayment and overpayment misclassifications. 	We recommend that additional checks are carried out to ensure that tenancies are correctly classified, expenditure is correctly classified between above and below LHA rate cap and overpayments are correctly processed and classified.	High	All the Non-HRA rent rebate cases will be checked prior to the submission of the 2018/19 claim.	Senior Specialist Advisor, Thriving Communities	31 March 2019
<p>HRA rent rebates Our audit in 2016/17 identified issues in respect of earned income being incorrectly input/calculated.</p>	We recommend that additional check are carried out to ensure that earned income is correctly input/calculated.	High	<p>Additional training has been delivered to Case Workers to ensure as far as possible accuracy in assessment of earned income.</p> <p>We will endeavour, given limited resources, to prioritise accuracy checking in this area.</p>	Senior Specialist Advisor, Thriving Communities	31 March 2019
<p>Rent allowances Our audit in 2016/17 identified issues in respect of:</p> <ul style="list-style-type: none"> • Occupational pension amount incorrectly input • Rent incorrectly recorded • Childcare costs incorrectly recorded. 	We recommend that additional checks are carried out to ensure that occupational pension amount, childcare costs and rent are correctly recorded for all rent allowances.	High	We will raise awareness of these errors with Case Workers and endeavour to prioritise accuracy checking in these areas	Senior Specialist Advisor, Thriving Communities	31 March 2019

APPENDIX III: FEES SCHEDULE

	2016/17 FINAL	2016/17 PLANNED	2015/16 FINAL	EXPLANATION FOR VARIANCES
	£	£	£	
PSAA regime				
Certification fee (Housing benefit subsidy claim)	25,598	15,598	14,960	We have incurred additional cost in our work on the 2016/17 housing benefits subsidy claim due to the significant level of errors identified by testing of cases in the current year and prior year, and delays in completion of the work. We have therefore agreed an additional fee with management. This is subject to approval by Public Sector Audit Appointments Limited.
TOTAL PSAA REGIME FEES	25,598	15,595	14,960	
Other certification work				
• Pooling of Housing Capital Receipts return	1,500	1,500	1,500	N/A
TOTAL CERTIFICATION FEES	27,098	17,095	16,460	

FOR MORE INFORMATION:

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The matters raised in our report prepared in connection with the audit are those we believe should be brought to the attention of the organisation. They do not purport to be a complete record of all matters arising. No responsibility to any third party is accepted.

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