



Northumberland County Council

AUDIT COMMITTEE

26 July 2023

International Lessons Learned Review

Report of Jan Willis, Executive Director of Transformation and Resources and S151 Officer

1. Purpose of the Report

- 1.1. To report to the Committee the outcome of the international lessons learned review commissioned following the issue of the S151 Officer's S114 report in May 2022.

2. Recommendations

- 2.1. To note the recommendations set out in the report and action plan and agree to receive a progress update in 6 months time.

3. Link to the Corporate Plan

- 3.1. This report is consistent with the priorities in the Corporate Plan 2023-26 "Achieving Value for Money".

4. Background

- 4.1. In May 2022 the Council's S151 Officer issued a report under S1114 and S114a of the Local Government Finance Act 1988 informing Council that in her view it was likely that the Council had incurred items of unlawful expenditure between 2017 and 2021 as a result of providing international consulting services on a commercial basis outside of a company as required by the Localism Act 2011 and paying an international allowance to the Chief Executive without proper approval and in contravention of the Council's pay policy statement.
- 4.2. At its meeting on 27 July 2022 the Committee agreed the terms of reference at Appendix 1 for an independent investigation into the circumstances that gave rise to the unlawful commercial trading.
- 4.3. The purpose of the investigation was to:
 - Draw out key lessons to be learned.
 - Identify where the council's processes for ensuring commercial trading activities are undertaken on a lawful basis and subject to appropriate oversight and reporting are fit for purpose fell short of both standard and best practice.

- Make recommendations for addressing any weaknesses identified.
- 4.4. Mr John Gilbert, an experienced ex local authority Chief Executive, was subsequently commissioned to undertake the investigation.

5. Key Issues

- 5.1. Mr Gilbert's review has identified a number of key learning points which are summarised below.
- 5.2. **Key Learning Point 1** - The continuing nature of informal Cabinet meetings created a lack of transparency regarding the activities of International to the wider set of members across the Council. Informal Cabinet is not a decision taking body. Had there been regular reports to formal Cabinet, then this would have required the s151 and Monitoring Officer to have given formal advice and enabled the audit and scrutiny committees to perform their relevant assurance roles much earlier.
- 5.3. **Key Learning Point 2** - A formalised internal process for supporting or challenging the development of any potential new opportunity or business idea was absent.
- 5.4. **Key Learning Point 3** - From the outset, International business was not on the corporate risk register, resulting in an inability for audit or scrutiny to review or interrogate the information.
- 5.5. **Key Learning Point 4** - The various risk registers were not formally picked up by internal audit, thereby preventing further independent evaluation of these risks. As a result, their internal annual planning process was flawed.
- 5.6. **Key Learning Point 5** - Some members felt they were being ignored and were not receiving adequate responses to their questions in some informal meetings.
- 5.7. **Key Learning Point 6** - There was an absence of formal reporting and decision making.
- 5.8. **Key Learning Point 7** - There was a lack of accountability and blurred responsibilities through the number of joint posts through staff being appointed into a joint International team away from their normal substantive role.
- 5.9. **Key Learning Point 8** – Management accounts were not routinely produced. The cost centres that were developed were administered on a retrospective cost allocation basis.
- 5.10. **Key Learning Point 9** - There was a lack of understanding of key government legislation such as the 2011 Localism Act.
- 5.11. **Key Learning Point 10** - Complaints and whistle-blowing was prevalent for much of the time International was in operation, which didn't seem to be properly addressed.
- 5.12. **Key learning Point 11** - There was a high turnover of statutory officers.

5.13. **Key Learning Point 12** - There was a lack of formal 'sign off' by the statutory officers on a number of International initiatives. This included, the formulation of written instructions for external legal advice and the establishment of any contemporaneous trading accounts.

5.14. **Key Learning Point 13** - The Monitoring Officer at the time was structurally operating at 3rd tier level.

5.15. **Key Learning Point 14** - There was no evidence of any 'regular' strategic meetings with the Trust between councillors and the Trust Board. When they were held, they were very sporadic and were regularly cancelled at the last minute. This would have been another opportunity for councillors and senior Trust Board members to establish a framework of scrutiny and governance and to share intelligence and concerns.

Recommendation	Response	Responsible Officer
Prior to any pre-trading activities taking place, there should be a gateway process, where potential commercial ideas are presented to a Council formulated Committee/Board.	Agreed. The Risk Appraisal Panel would be the appropriate place for this to happen and their terms of reference will be amended accordingly.	Director of Law & Governance
Consideration should be given to expanding your Risk Approval Panels Terms of Reference, as a vehicle for evaluating potential trading propositions and advice to the Shareholder Committee going forwards.	Agreed.	Director of Law & Governance
The Council should seek independent assurance that commercial risks are being evaluated and recorded on the strategic risk register.	A review of the Council's risk management processes, in conjunction with the Executive Management Team, was identified for 2023/24. This review is now in progress and this recommendation will be considered as part of that review.	Chief Internal Auditor
The Chief Internal Auditor should meet every director on a bi-	The Chief Internal Auditor meets formally with each	Chief Internal Auditor

<p>annual basis to understand operational challenges and concerns, with a view to ensure that the annual audit plan is robust. The outcome of the summary formulated from those meetings should then be initially presented to the meeting of the 3 statutory officers.</p>	<p>director annually as part of the audit planning process. This includes the s151 Officer. Outcomes from the audit planning process are reported to 'senior management' (Executive Management Team) and the 'Board' (Audit Committee) in accordance with the Public Sector Internal Audit Standards.</p> <p>The Chief Internal Auditor attends meetings of the Executive Management Team on a bi-monthly basis and has already identified an action to increase engagement with individual directors during 2023/24.</p> <p>The Chief Internal Auditor already meets with the s151 Officer on a monthly basis.</p>	
<p>The Audit Committee should gain feedback from all members of the Council on an annual basis, as to what they believe should be on the Chief Internal Auditor's annual audit plan.</p>	<p>Development of the Internal Audit Plan is the responsibility of the Chief Internal Auditor.</p> <p>As part of developing the Internal Audit Plan, the Chief Internal Auditor undertakes engagement with a number of stakeholders, including Audit Committee (individual members and as a collective body). This recommendation will be discussed with Audit Committee.</p>	Chief Internal Auditor
<p>To further support this process, the Monitoring Officer should maintain a register of all</p>	<p>A register of all commercial trading will be kept by the council and legal advice will</p>	Monitoring Officer

commercial trading activities going forwards and give assurance that such activities are lawful.	be sought on all proposed activities.	
The Monitoring Officer should issue formal advice setting out clear principles of decision making. This advice should include requirements for recording of decisions taken by officers under delegated authority.	The process of granting and recording delegations is under review. In the light of that review any changes will be made in accordance with the appropriate process.	Director of Law & Governance
The Monitoring Officer should issue formal advice on members' rights to information and act as an escalation point for members in circumstances where they are unable to obtain information they are entitled to.	While the process and members entitlement to information is set out in the constitution the Director of Law and Governance will issue succinct guidance to members and officers, including details of how members can raise concerns.	Director of Law & Governance
The Monitoring Officer should tighten up the arrangements for the commissioning of any external legal advice and should be the key statutory officer to formally request/sign off any external legal instructions with a copy retained by the legal team.	All relevant officers will be reminded of the requirement to commission all legal work with the support of the in-house team.	Director of Law and Governance
Each Cabinet member should have a personal development plan as part of their annual appraisal process.	The Council recently refreshed and rolled out Member Personal Development Plans. This happened in consultation with Member Services Working Group and Group Leaders and PDPs were shared with all Members in March 2023.	Completed

Bespoke training should be provided for any new members and/or Cabinet members, including understanding company legislation.	This will be provided as required and on request.	Head of Member Services
There needs to be a continual monitoring of the Council's Constitution to ensure that it picks up issues regarding schemes of delegation and levels of authorisation.	This has been and remains the role of the Director of Law of Governance. A review of current arrangements is being undertaken. Members will be advised of the conclusions.	Director of Law & Governance
The S151 Officer should undertake an analysis of financial and procedural rules around commercial trading authority, as well as any schemes of delegation for approval of contracts of this type.	A review of finance and contract procedure rules is being undertaken following updates to the Council Constitution in May 2023.	S151 Officer
Establish a programme of regular Cabinet/senior officer awaydays to ensure that there is cohesion and alignment and positive relationship building between senior officers and members going forwards.	This has commenced. There now exists a Strategic EMT meeting in the four-week cycle of EMT meetings and strategic issues flow into SLT meetings.	Completed
The S151 Officer should issue guidance on accounting and financial management requirements for all commercial trading activities. Once agreement that internal support services are to be provided these should be established and agreed through formal SLAs.	This is in progress.	S151 Officer
Upon the establishment of any future cross-council officer working group, any officers deployed to that group should	Agreed and is now the practice.	Completed

<p>keep written records of correspondence with their director and/or statutory officer. Furthermore, minutes of meetings of cross-council groups are shared appropriately, including the statutory officers, and available to be discussed at their monthly meetings.</p>		
<p>There is a comprehensive review of officer training to ensure that is tailored to role, responsibility and risk, especially around government legislation. It should specifically include the key 'formal roles' that the s151 and Monitoring Officer have in ensuring good governance.</p>	<p>A programme of governance training and awareness is being developed to be delivered on a rolling basis.</p>	<p>Director of Law & Governance</p>
<p>Examination and continual review of the reporting structure of the Chief Internal Auditor is undertaken.</p>	<p>Under the new tier3/4 structure approved by Staff and Appointments Committee on 25 April 2023 the Chief Internal Auditor now reports to the S151 Officer. He has direct access to the Chief Executive and Chair of Audit Committee, ensuring his independence. The CIA is not a member of the Executive Management Team.</p>	<p>Completed</p>
<p>There is a review of the number of joint posts across the organisation to ensure there is clarity of role, function and accountability.</p>	<p>Following the dissolution of the formal partnership with Northumbria NHS Foundation Trust in 2021 there are no longer any joint posts.</p>	<p>Completed</p>
<p>The three statutory officers should work together and meet formally on a circa monthly basis.</p>	<p>Agreed. The statutory officers already meet informally on a regular fortnightly basis to discuss</p>	<p>Completed</p>

	emerging issues and on a formal bi-monthly basis.	
At the beginning of any initiative potentially involving significant amounts of both expenditure and/or income and involving a range of complexities, the Council's S151 and Monitoring Officer as statutory officers must sign off any formal documentation/reports.	Agreed. This already happens as a matter of good practice.	Completed
The Company Secretary should be line managed by the Monitoring Officer to ensure appropriate linkages with other legal operations.	Agreed.	Director of Law & Governance
Where there is a likelihood of working in partnership with a key strategic organisation and/or the formation of a joint venture, the establishment of a minimum of formally minuted, bi-monthly executive meetings should be held including Cabinet members and the equivalent non-executive board members where applicable. This should include the sharing of 'governance intelligence'.	Agreed.	Director of Law & Governance

IMPLICATIONS ARISING OUT OF THE REPORT

Policy	None.
Finance and value for money	There are no direct financial implications arising from this report. Effective control and oversight of commercial trading activities provide assurance that public resources are being used appropriately and ensure transparency and accountability.
Legal	There are no direct legal implications arising from the report.
Procurement	None.
Human Resources	None.
Property	None.
Equalities	None.
Risk Assessment	None
Crime & Disorder	None.
Customer Considerations	None.
Carbon Reduction	None.
Health & Wellbeing	None
Wards	All.

Background Papers:

Report sign off:

	Name
Monitoring Officer/Legal	Stephen Gerrard
Executive Director of Transformation and Resources & S151 Officer	Jan Willis
Chief Executive	Helen Paterson
Portfolio Holder(s)	N/A

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