

LOCAL GOVERNMENT STAFF COMMISSION FOR NORTHERN IRELAND

**REPORT TO COUNCIL
ON THE IMPLEMENTATION OF
RECOMMENDATIONS 6 AND 7 OF THE
NIAO EXTRAORDINARY AUDIT REPORT
OF CAUSEWAY COAST AND GLENS
BOROUGH COUNCIL**



OCTOBER 2023

1.0 RECOMMENDATIONS

The Council is recommended to:

1. Consider this Report on the implementation of Recommendations 6 and 7 of the NIAO Extraordinary Audit Report of Causeway Coast and Glens Borough Council.
2. Confirm their assurance of the processes followed in the implementation of Recommendations 6 and 7.
3. Consider the further recommendations detailed in Section 6.0 of this Report.
4. Recognise that in view of the confidentiality of internal Council employment processes, details of independent investigations shall not be publicly accessible.

2.0 INTRODUCTION

This Report summarises the outcome of the implementation of Recommendations 6 and 7 of the NIAO Extraordinary Audit of Causeway Coast and Glens Borough Council, namely:

'6. The Council should take appropriate action where it has been demonstrated from this report that the behaviour of Senior Council Officers has fallen short of the standards expected of an official in a public body, and

7. The Council should refer Senior Council Officers to the relevant professional bodies where it has been demonstrated from this report that the behaviour of those Officers has fallen short of the standards and behaviours expected by those bodies.'

This report sets out:

- The role of the Local Government Staff Commission
- Outcomes
- Further actions to be considered by Causeway Coast and Glens Borough Council

3.0 BACKGROUND AND CONTEXT

The Council accepted the findings contained within the Extraordinary Audit Report and resolved to immediately implement all 8 recommendations at the Council meeting on 26 July 2022. At the same meeting, Council noted the established mechanism for investigating questions of discipline raised in connection with a Chief Executive of a local authority in Northern Ireland.

The Council agreed at its meeting on 26 July 2022 that it will comply with their obligations under the 1996 Agreement JNC (Joint Negotiating Committee) Agreement

on Disciplinary, Capability and Redundancy for Chief Executives of Local Authorities (where appropriate) and in line with the recommended Codes of Practice as part of its response to the Extraordinary Audit Report recommendations 6 and 7.

Council also noted there is distinct disciplinary process which may exist for other local government employees. Council resolved to incorporate this approach as part of its response to Recommendations 6 and 7 of the Extraordinary Audit Report.

At the same meeting, Council resolved to seek the assistance of the Local Government Staff Commission of Northern Ireland (the Commission) in respect of Recommendations 6 and 7.

4.0 ROLE OF THE LOCAL GOVERNMENT STAFF COMMISSION

The remit of the Commission, as approved by Council on 09 August 2022, was to manage the implementation of Recommendations 6 and 7 of the Extraordinary Audit Report. The agreed Terms of Reference stated the Commission will appoint independent person/s, as required, to undertake roles specified in the relevant Council procedures. (Please refer to the agreed Terms of Reference at Annex 1).

As an Arms Length Body (ALB) of the Department for the Communities (DfC), it was agreed that the Commission would avail of a Strategic Partner Framework Contract. As such, a request for the provision of specialist HR Services was initiated in respect of any relevant matters arising from the Extraordinary Audit Report recommendations 6 and 7.

The Commission therefore proposed the appointment of an Independent Third Party, to be specifically tasked to work with the Council to resolve the Extraordinary Audit Report Recommendations 6 and 7 through the implementation of the agreed Council's policies and procedures. The Council approved the appointment of the Independent Third Party at its meeting held on 10 October 2022.

Throughout the Commission ensured that:

- concern for the health, wellbeing and welfare of the senior Council officers was paramount and continually assessed. Appropriate sign posting to the Council's Confidential Counselling Service and Occupational Health referrals were made available;
- all measures were taken to ensure that independence and objectivity was maintained, and that identified or perceived conflicts of interest were acknowledged and appropriately mitigated;
- the 1996 Agreement and Council Disciplinary Procedure (2018) were fully complied with and was cognisant of the senior Council Officers entitlement to treat the matter as confidential;
- as far as reasonably practicable, that the Council adhere to recommended procedures and that all employees are treated fairly; and

- progress reports were submitted for consideration by Council at scheduled Council meetings where the Action Plan to address the NIAO Extraordinary Audit Report recommendations was reported on.

5.0 OUTCOMES

5.1 Outcome in relation to Recommendation 6

The appointed Independent Third Party, approved by Council on 10 October 2022, conducted and completed all investigations in accordance with the provisions of the 1996 Agreement and the Council's Disciplinary Procedure (2018).

Where the recommendation was that a formal disciplinary procedure be implemented the Council and/or the Independent Panel ultimately decided that no formal disciplinary sanctions were considered appropriate based on the available evidence.

5.2 Outcome in relation to Recommendation 7

Having decided that there were no formal disciplinary sanctions to be taken, no further action is required in respect of this recommendation.

6.0 FURTHER ACTIONS TO BE CONSIDERED BY THE COUNCIL

This section of the Report is designed to enable the Council to move forward in a positive manner, to build on current strengths and overcome identified weaknesses, with a view to increasing effectiveness and efficiency in all areas of operation.

Four clear themes emerged during the implementation of actions to address NIAO Extraordinary Audit Report Recommendations 6 and 7:

- The need for cohesive and effective leadership from elected members, the chief executive and SMT.
- A lack of trust and respect between elected members, senior officers and staff in general.
- Poor communication in the organisation at all levels and within and between departments, leading to mistrust and a lack of clarity.
- Ineffective decision-making structures and processes.

This section sets out a range of recommendations for action, following consideration of the findings of the Local Government Auditor and the experience of the Councillors and independent person/s undertaking roles specified in the relevant Council procedures.

While recommendations are listed separately in relation to the emerging themes, they are not meant to be disjointed or exclusive but are essentially complimentary and provide a holistic approach to the change needed in the organisation.

When taken together the individual recommendations provide a powerful agenda for change, relevant to the emerging needs of Causeway Coast and Glens Borough Council and new culture based on trust and effectiveness.

Recommendations

6.1 Leadership and Corporate Governance

- A monitoring committee should be put in place to oversee any accepted review recommendations arising from the NIAO Extraordinary Audit report. The committee should be tasked with the production of an integrated improvement plan/action plan incorporating and aligning actions from all reports that have been produced for the Council – creating transparency, accountability and providing the foundations for effective execution and performance management for all stakeholders.
- A system to encourage effective elected member/officer relationships and communication based on the Protocols for Relations Between Councillors and Employees in District Councils in Northern Ireland (contained in both Codes of Conduct) should be explored.
- Elected members should be tolerant of discussion at all meetings and treat proposals and recommendations from senior officers in a constructive manner. Officers must be professional, giving transparent information and advice to allow robust decisions to be made.
- A mechanism should be put in place to ensure that there is a direct link between the corporate discussion and decisions made at SMT and the policy making process at the political level in the Council. Revisions to objectives, targets or programmes of activity, in year, should only be approved through the appropriate structures and decisions made in light of the potential impact on corporate priorities and resources.
- Priority should be given to supporting a different leadership culture for the Council. Consideration should be given to developing a set of leadership qualities together with a development programme for the senior management team which aims to support a cohesive transition to a single team with shared objectives and priorities.
- In considering improvements in the communication system the Council and SMT should have regard to developing an approach to address communication requirements for staff at all levels.

- The problem of perceived lack of confidentiality should be addressed in line with the recommendations on fairness and trust building and to ensure compliance with obligations owed to employees regarding data protection, human rights and fairness of procedure.

6.2 Corporate Culture

- It is important that the Council is able to evidence progress of the strategic focus on corporate, governance and HR-related issues, completion of which are crucial to the efficient operation of Council. In order for Council to quickly gain an up to date position in relation to the various ongoing, and often inter-related, issues it is recommended that the following actions be progressed as soon as possible:
 1. Initiate a corporate 'health check' review using an involvement model whereby all the major stakeholders in the Council would be fully involved in the process;
 2. The process implemented should consist, as a minimum, the following stages:
 - Workshops involving staff and elected members
 - Interviews with staff
 - Staff and elected member questionnaires
 3. The outcomes of the review should be used to plan a way forward for the Council to increase efficiency and effectiveness. The corporate health check should be revisited after twelve months to evidence the progress made.

6.3 Organisation Review and Staffing Structure

- The planned organisation review needs to be implemented, as a priority. The organisation review actions proposed under the business improvement review should be widely communicated and the process should involve open consultation with elected members and officers and trade unions.
- A Project Plan should be developed to progress the organisation review, with identified monitoring points to SMT, Staffing Sub Committee and Council. A target date should be set for completion of the Review and publication of the results.
- Equality of access to development opportunities should be addressed by ensuring any performance management scheme introduced identifies and seeks to address development needs.
- The current system for progressing complaints and grievances should be reviewed with a view to improvement for the future, particularly in relation to consistency of treatment, confidentiality and adherence to timescales and deadlines.

- There should be an anonymised monitoring system for casework such as grievances and harassment allegations as well as external proceedings, which is regularly reported to SMT and a Staffing Sub Committee. This would show progress against suggested timescales in line with policy.

6.4 Performance Management Scheme

- SMT must take ownership of performance management and be called to account for their performance in their departments.
- There should be clear agreement on the part of the Council that an appraisal scheme is to be introduced. The purpose and benefits of a Performance Management Scheme should be promoted across the Council (including liaison with the trade union side).
- The scheme should be integrated into the Council's overall system of Performance Management.

6.5 Building Capacity and Capability

- The Business Plans, aligned to the Corporate Plan, should have a clear allocation of responsibilities which in turn will provide the basis for developing team and individual objectives as part of a Performance Management Scheme.
- The organisation review should take account of the need for clear lines of accountability, responsibilities for decision taking and the framework for reporting performance information. With regard to accountability there should be delineation between the corporate/strategic role of elected members and the professional and operational responsibilities of officers.
- It is recommended that a programme to actively engage, build the capacity, capability and confidence of the senior leaders, role specific where necessary, through coaching and mentoring is established and encourage feedback on an ongoing basis.
- Support personal development and succession planning through senior leadership training for existing and potential senior leaders.
- Specifically consider the learning requirements for Elected Members including mechanisms for continuous professional development to support good conduct, governance and relationships.

7.0 LEGAL CONSIDERATIONS

External legal advice has been sought on the content of this report and that advice is as follows:

- I. It is appropriate that the report is formally recorded as having been received by the Council.
- II. That the Council undertake an assurance exercise in relation to this report and the implementation of Recommendations 6 and 7.
- III. The Council is not entitled to be provided with specific details of reports or documentation in relation to Recommendations 6 or 7 to the extent that this relates to individuals.

8.0 DATA PROTECTION IMPLICATIONS

The data protection and confidentiality implications concerning the independent investigations in relation to the implementation of Recommendations 6 and 7 have been given careful consideration.

On the basis that the implementation of Council policies and procedures to address Recommendations 6 and 7 is confidential for reason of information:

Confidentiality is required whereby there is information (i) relating to any individual; (ii) which is likely to reveal the identity of an individual; and (iii) relating to the financial or business affairs of any particular person (including the Council holding that information).

This constitutes exempt information and should not be disclosed.

Causeway Coast and Glens Borough Council

**TERMS OF REFERENCE AND OPERATING ARRANGEMENTS IN RESPECT OF
THE RECOMMENDATIONS OF THE LOCAL GOVERNMENT AUDITOR'S
EXTRAORDINARY AUDIT REPORT**

1.0 BACKGROUND

- 1.1 In November 2020 the Minister for Communities directed the Local Government Auditor to hold an extraordinary audit of the accounts of Causeway Coast and Glens Borough Council. The Local Government Auditor published the Extraordinary Audit Report on 07 July 2022.
- 1.2 At a Special Council Meeting held on Tuesday 26 July 2022, Council voted to accept all eight recommendations presented in the Extraordinary Audit Report and resolved to request independent external assistance from the Local Government Staff Commission in relation to Recommendations 6 and 7 of the Extraordinary Audit Report.
- 1.3 The Mayor wrote to the Local Government Staff Commission on 28 July 2022 to 'request the assistance of the Staff Commission, in respect of any relevant matters arising from the Extraordinary Audit Report recommendations and their implementation.'
- 1.4 This paper sets out the terms of reference for the involvement of the Local Government Staff Commission.

2.0 TERMS OF REFERENCE

- 2.1 To work with the Council to resolve the Extraordinary Audit Report (the Report) recommendations through the implementation of the Council's policies and procedures and by adherence to the necessary associated legislative, resource management and governance actions required by the Department for Communities in order to demonstrate the Council's compliance with best practice.

3.0 THE ROLE OF THE LOCAL GOVERNMENT STAFF COMMISSION

- 3.1 The Local Government Auditor, in the Report, references the minimum standards of behaviour expected from Council employees. The Local Government Staff Commission (the Commission) is the statutory body with responsibility for the operation of the Code of Conduct for Local Government

Employees and provides independent support in ensuring equality of opportunity and fairness in the local government system.

- 3.2 The Commission is independent of all parties in this matter. It will provide professional HR advice to the Council and given the need to ensure an absence of perceived conflict in the conduct of the investigation will arrange for the matter to be investigated by suitable independent person/s and ensure the application of fair process throughout.
- 3.3 The Commission proposes to manage the elements as follows:
- The Principal HR Advisor has been designated as the Commission Officer to provide professional HR advice and assist the Council in respect of any relevant matters arising from the Report recommendations and their implementation.
 - Complete a mapping exercise and a review of the documentation referenced in the Report to determine which Senior Council Officers may be subject to further investigation.
 - The Commission will facilitate on behalf of the Council relevant procedures as necessary.
 - The Commission will appoint independent person/s, as required, to undertake roles specified in the relevant Council procedures. He/She/They has/have not been involved in any of the matters cited in the Report.
 - The Commission will liaise with the Local Government Auditor and Department for Communities as required.

4.0 SCOPE

- 4.1 The Council decision specified that the Commission should assist the Council to address recommendations 6 and 7 of the Report. Recommendations 6 and 7 of the Report state:

- ‘6. The Council should take appropriate action where it has been demonstrated from this report that the behaviour of Senior Council Officers has fallen short of the standards expected of an official in a public body.*
- 7. The Council should refer Senior Council Officers to the relevant professional bodies where it has been demonstrated from this report that the behaviour of those Officers has fallen short of the standards and behaviours expected by those bodies.’*

Having carefully considered the issues raised by the Local Government Auditor in the Report it has been determined that addressing recommendations 6 and 7

may also impinge on other recommendations and cognisance of this is included within the Scope of the terms of reference, as appropriate.

5.0 METHODOLOGY AND OPERATING ARRANGEMENTS

5.1 The following methodology will be employed:

- Forward the terms of reference and operating arrangements for consideration and approval by Council.
- A review of and access to documentation relating to the conduct of Senior Council Officers.
- The Head of Organisation Development & Human Resources will be the point of contact within the Council.
- To request any further information or clarification of any specific matters with the respective parties as required.
- To investigate and report on action to be taken to address the statement by the Local Government Auditor that the 'behaviour of Senior Council Officers has fallen short of the standards expected of an official in a public body' under the appropriate policies or procedures.
- To assist the Council with any formal procedures under the appropriate agreement or policy.

6.0 SUPPORT ARRANGEMENTS

6.1 It is recognised that an investigation of this nature can be stressful for the individuals involved. The Council has in place contractual arrangements for occupational health and employee assistance support. This provision will be available for all officers in connection with this process.

6.2 The Council may also be required to provide a note taker for the duration of the proceedings.

7.0 OTHER MATTERS

7.1 There are no direct costs associated with the involvement of the Local Government Staff Commission, but the Council will be responsible for all other costs associated with this process.

7.2 An Information Sharing Agreement will be agreed between the Council (data controller) and the Local Government Staff Commission (data processor).