

Meeting	Audit and Governance Committee
Date	8 August 2024
Present	Councillors Hollyer (Chair), J Burton (Vice-Chair), Fisher, Whitcroft, Merrett, Rose, and Vassie (substitute for Cllr Mason) Mr Leigh and Mr Binney (Independent Members)
Apologies	Councillor Mason

18. Declarations of Interest (5:32 pm)

At this point in the meeting, Members and co-opted members were asked to declare any disclosable pecuniary interests, or other registerable interests, they might have in respect of business on this agenda, if they had not already done so in advance on the Register of Interests. None were declared.

19. Action Log (5:32 pm)

Resolved: That the action log be noted and the completed actions for 2022 and 2023 be archived.

20. Public Participation (5:34 pm)

It was reported that there had been two registrations to speak at the meeting under the council's Public Participation Scheme.

Charles Malarkey spoke on agenda item 4, report on the extension and subsequent termination of the Early Intervention and Prevention Contract with the Salvation Army. He confirmed the Salvation Army welcomed the update report and were in support of the consultation planned with the community sector to help shape future homelessness prevention.

Gwen Swinburn addressed various procurement and governance matters relating to the report on the extension and subsequent termination of the Early Intervention and Prevention Contract with the Salvation Army. She suggested an independent external auditor should be commissioned to undertake an internal audit to address the inaccuracies and

failings within contract management, procurement planning, forward procurement procedures and transparency.

21. Report on the Extension and Subsequent Termination of the Early Intervention and Prevention Contract with the Salvation Army (5:38 pm)

In advance of consideration of the item, the Director of Governance and Monitoring Officer made clear the purpose of the report and the committee's role in considering the matter. He noted that the report was intended to address the factual questions of how the Salvation Army contract came to an end, the process that was followed in that and what lessons could be learnt.

The Director of Housing and Communities and the Head of Legal presented the report. The Director noted that the Health, Housing and Adult Social Care Scrutiny Committee (HHASCSC) had received an update report at their meeting on 13 November 2023 on the homelessness/resettlement services where it was resolved that the Audit and Governance Committee be requested to review how the Salvation Army contract had elapsed. It was recognised that the report considered by the HHASCSC had been omitted from the agenda and that it could be viewed using the following link:

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=1056&MId=14273&Ver=4>. It was also acknowledged that contrary to paragraph two of the report, this update did not build upon the withdrawn report that Members received on 28 February 2024.

Officers highlighted the contractual processes, the decision making throughout the contract's life cycle, the significant cost savings and the lessons learnt as part of the council's ongoing corporate improvement journey, as noted within the report.

It was also noted that contract management had been identified as a weakness in the Annual Governance Statement and the council would focus on ensuring:

- contracts contained robust contract management provisions;
- contract management provisions were proactively communicated and used;
- advance planning for service remodelling and retendering included early consultation and clear communication.

During a detailed discussion, Members raised various concerns and questions to gain an exhaustive insight into the:

- internal control processes;
- contract terms and conditions;
- perceived contract management failings;
- extension and subsequent end of the contract;
- rationale for not recommissioning the service;
- principles of decision making and
- lessons learnt

Members questions also focused on receiving assurances from officers that the perceived failings would be mitigated and that the council's procurement principles, contract management processes, procedure rules and training to officers would be improved to ensure matters did not reoccur.

It was also recognised that the fundamental challenges were linked to the management of the contract, and Members raised their concerns with the lack of openness, transparency and communication between the council and the Salvation Army, particularly at the end of the contract, and they acknowledged that the parameters set for contract managers, including reprocurement of contracts, required reviewing.

Officers confirmed that the contract was originally awarded as standard, including the first contract extension that was required to ensure continuity of service, but that the communication failings began in relation to the second extension. Officers reiterated that they were committed to reviewing how contracts were managed, drawing on best practice to identify the steps to take to improve the experience of organisations who enter contractual arrangements with the council.

Questions raised continued to be answered during the discussion and it was acknowledged that:

- the contract was not included in the agenda pack due to the technical and confidential nature of the document and it was generally not common practice to distribute these in reports.
- a waiver was used to ensure a seamless transition with no lapse in service for York citizens, and it was clear on the waiver issued that the council intended to bring the service in house rather than award a further contract to the Salvation Army.

- There were multiple communication factors that contributed to the issues that played out during the months prior to the contract ending, and the council was committed to improving these failures.

In the interest of good governance, Members also discussed and raised questions regarding the function of an Executive Member, decisions taken under delegated powers, business continuity and the potential reputational damage to the council.

Members recognised that an internal audit of contract management provisions across the council was required to ensure contracts were constructed appropriately following a comprehensive procurement process, and the Director of Governance, Chair and Vice-Chair agreed to consider the feedback received around:

- procurement rules;
- waivers;
- service reviews;
- gaps in contracts and extension to service;
- transiting of services;
- ownership of the decision once approved;
- communication methods and
- training

Concerns were also noted regarding the officer reports received over the last year on this subject; although they were well written, Members felt they did not always contain adequate procurement data.

The Director of Governance stated that an internal audit report should provide assurances to the committee, and should the auditors find any fundamental problems, they were duty bound to raise this with the committee and senior officers.

Following an extensive debate, officers were thanked for their contribution and it was

Resolved:

- (i) That following discussion with the Chair and Vice-Chair on the observations identified in the meeting, and ensuring the process followed to the point of cessation of the Salvation Army contract was included, the Director of Governance be commissioned to organise

an internal audit investigation of the council's contract management provisions.

- (ii) That an appropriate method of presenting key waiver details to the committee be considered by the Director of Governance.
- (iii) That the Constitution Working Group be requested to promptly review the Scheme of Delegation (Appendix 1 to the Constitution).

Reason: To ensure transparent scrutiny of process and assurance regarding processes followed.

22. Report of the Monitoring Officer on suggested Constitutional Changes (7:40 pm)

Members considered a report that provided the first tranche of suggested constitutional changes to the Council Procedure Rules (Appendix 3 to the Constitution).

The Director of Governance confirmed that the revised draft was presented to committee by way of early consideration, with a view that a substantial discussion would take place at the next scheduled meeting of the committee on 4 September.

Mr Leigh, Independent Member, raised some key points to promote good behaviour, culture and governance across the council, and he confirmed his resignation from the committee.

Mr Leigh was thanked for his commitment and service over the years, and in answer to a question raised, it was

Resolved:

- (i) That paragraph 4.2, particularly the Lord Mayor being granted a casting vote when they were no longer a Councillor, be reconsidered by the Director of Governance.
- (ii) That the proposed changes be considered in advance of the meeting on 4 September 2024.

Reason: To allow the committee to consider proposed Constitutional changes.

23. Audit and Governance Work Plan 2024/25 (7:46 pm)

The committee considered their work plan for the 2024/25 municipal year.

Resolved: That the work plan be revised to include the update on the Constitution Review on 4 September 2024.

Reason: To ensure the committee maintained a programme of work for 2024/25.

Cllr Hollyer, Chair

[The meeting started at 5.32 pm and finished at 7.46 pm].