

City of York Council

PIR Assurance: Final Report for A&G Committee



1. Background and scope

1.1 On 19 April 2021 Mazars published a Report in the Public Interest (PIR) on The City of York Council (CYC) into the early termination of the, then, Chief Executive's employment contract. The 5 recommendations from the PIR were:

- The Council should adopt and apply appropriate standards for business case preparation in relation to exit and pension discretions to improve information supporting decisions
- Decision notes should be maintained that document the factors that explain the case for the use of public funds under the scheme of delegation such as where payments exceed contractual entitlements
- The Council should review the design of its governance policies and procedures to manage conflicts of interest (including self-interest threats). This should include updating the Council's constitution and scheme of delegation
- The Council should ensure all Members fully understand the requirements of the Code of Conduct in relation to declarations of interests
- The Council should review its policies and procedures to reflect Government guidance in the use of non-disclosure agreements

1.2 The Mazars report also stated that they "sought views from members and officers on the recurring themes of conflicts of interest and standards of member behaviour that have led to audit action or media coverage in recent years.....the responses we have received include indicators of denial but also an awareness of how the issues reported could undermine trust and confidence in the Council." Some would refer to these issues as reflecting CYC "culture."

1.3 The City Council received this report at Full Council on 4 May 2021 alongside an Action Plan. On 16 June 2021 the Audit and Governance Committee received an update on progress against the Action Plan and a supporting 'Implementation Plan.'

1.4 The Local Government Association (LGA) were asked by CYC to provide support in order to assure the Council that it has taken appropriate, timely and effective action in response to the PIR. Throughout the course of this assurance support, the LGA aimed to answer these three questions:

1. Were the Council's Implementation and Action Plans appropriate and sufficient to cover the issues raised in the PIR and specifically the five recommendations within it?

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2. Were the actions within the Implementation and Action Plans implemented/carried out in the planned way?
3. The “so what?” question. Have the completed actions had, or be likely to have in due course, the desired impact in terms of the changes in the systems, processes, behaviors and culture that the PIR implied were needed, including as in Mazars’ comments repeated in 1.3 above.

1.5 The Council agreed the terms of reference for this work.

1.6 The support was conducted by the following peer team members:

- An experienced Monitoring Officer/Governance Officer - Sharon Bridglalsingh, Director, Law and Governance, Milton Keynes Council
- An HR expert – Sarah Ward, Principal Adviser – Workforce, LGA
- An LGA Facilitator/Manager, Mark Edgell

1.7 This is our final report.

2. Our Findings

2.1 Reports in the Public Interest (PIRs) are rare. For a Council to receive one is a serious matter. The Council, particularly through the Monitoring Officer in post at the time, put a lot of energy into responding to the report, recognising that it was about failure to follow due process, poor record keeping and poor governance, and touched on issues including conflicts of interest, not hearing advice, or that advice not being given clearly enough.

2.2 In terms of question 1 (para 1.4), the peer team, were, overall, satisfied that the Action Plan and Implementation Plan included appropriate steps to deal with the specifics within the 5 recommendations in the PIR.

2.3 We did, however, identify that there were potential gaps in the planned actions that might deal effectively with underlying issues. Namely the implications in the PIR that it was not simply a lack of correct processes that was the issue, but that elements of the Council’s culture meant inconsistent adherence to policies and guidelines.

2.4 Specifically we wondered which planned actions would deal with these cultural issues. For example: ensuring members adhere to the rules and codes, beyond the proposed training and whether there was a sufficient explicit reference to actions to ensure the MO would be enabled to carry out the role effectively.

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2.5 In terms of question 2 (para 1.4) we felt that good progress had been made around the implementation plan. We saw sufficient evidence to assure ourselves that the Council has made good efforts to carry out the plans.

2.6 We did, however, feel there were some areas where the Council could further underline their commitment to this work, specifically:

- We were disappointed that the mandatory training (referred to in R3 (1.4)) around the new Constitution (which was implemented in May 2022) does not yet appear to have happened. It is recognised that other training will be implemented as part of the new Council past May 2023, but our team agreed it remains important to expedite the training on the new constitution.
- We welcomed the fact that the new Code of Conduct has been implemented. Mandatory training for members and officers around the Code (referred to in R4 (1.2) and R4 (1.4)) was done at that time. It is recognised that other training will be implemented as part of the new Council past May 2023, but questioned if progress had been made regarding the annual Code of Conduct retraining as described in R4 (1.3)? Additionally, what records do the council have on who has been on the Code of conduct training? What is being done if someone hasn't attended?
- While recognising important progress, we also wondered whether sufficient steps have been taken to address any future potential conflicts of interest? How effective is the guidance now being provided with all meeting agendas to assist Elected Members in identifying a conflict of interest? Has a plan been put in place to regularly review declarations of interest made by the members?
- Changes to the council constitution have made the functions of the MO more overt and explicit, but it is still essential that the Council ensures that the MO can carry out the role effectively. This would require some members to change their behaviour but also requires effective support from all CMT members to instil an understanding of the role of the MO (and indeed other statutory officers) and demonstrate/cultivate respect for the position and the member/officer protocol. The new MO appointment will have helped this and continue the work started by the previous MO. At all times, the MO needs to be consistently supported at the top table.

3. Question 3: “So what?”

3.1 The 5 PIR recommendations were narrow and relatively simple to implement. For the LGA team we considered the “so what” question to be the most significant. To help answer this Question 3 (para 1.4) we came on-site for one day, to speak to a range of people to ascertain the impact of the actions undertaken and whether they have precipitated the changes in the systems, processes, behaviours, and culture that the PIR implied were

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needed. Through those conversations and triangulating the evidence available to us we have been able to reach a view on these issues.

3.2 We engaged with a wide range of people during our visit and were struck by their openness and constructiveness. We have been particularly heartened by the desire of Councillors from across the political spectrum to share their views with us. One thing is clear from all this: that everyone at the Council shares a passion for delivering on the most important things for residents and businesses in York and throughout the day, a sense of pride in what was being achieved emerged clearly,

3.3 It was commendable that the Council clearly wanted to be seen to be responding quickly and effectively to the report, the majority of which has been led by the MO both previous and current. The Council recognised it was a “pull your socks up” moment and there has been a real effort to respond effectively and put the right things in place.

3.4 Many of the new policies, practice and processes that have been put in place have been effective. But we would argue that the council should be careful about moving too far in the opposite direction and avoid policies and processes that may be too risk averse or even overzealous, meaning for example in some cases decisions being taken at too low a level? For example, perhaps the section on interests is overcomplicated?

3.5 We have heard that the Council is doing a lot of fantastic things. This is especially the product of real dedication and passion from the people who work for the authority and indeed from the members of the Council. The Council has some great people working for it, with talent across the whole organisation, many of whom told us they understood the concerns and wanted to move forward positively.

3.6 The lingering reputation of the Council over issues like the PIR and the comments from Mazars over “standards of member behaviour” appear to us to be at odds with the passion to do the right thing for York and CYC’s track record of delivering well. The Council needs to properly resolve this.

3.7 Member behaviour issues can be a distraction to delivering even great things for York. But officers not carrying out their role effectively or not being able to carry out their role affectively is a contributory factor too. This is why culture is so important, ensuring everyone understands roles and responsibilities and allows advice to be offered and decisions made at the right level and within a culture of mutual respect.

3.8 York has seen significant political change over recent years. Indeed, York is a very political place. The fact that the Council has been run by a stable coalition since 2019 is a positive sign of strength.

3.9 But alongside this, a sign of weakness, is what we identified as the greater sensitivity of some members than is generally observed in other Councils. Additionally in some cases

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there appears to be battle, challenge and scrutiny around process and about minutiae, rather than the important issues such as outcomes for residents and the city. Whilst sometimes process does need to be questioned, to be up with the best Councils, CYC needs to move to focussing debate on priorities, policies and performance, much less on processes and not on personalities. Agreeing to disagree on some things but in a constructive, cordial, respectful way.

3.10 As a simple example of this, the current conflict of interest and standards process has been used for political purposes by some councillors. Only members can change this scenario, although peer to peer pressure within Groups especially, can help in modifying behaviours. There are some signs that the PIR has acted to improve things around member complaints. So, for example, the JSC process has changed and is generating what are seen as more rounded decisions.

3.11 Members and officers need to understand the roles of politicians and the roles of officers.

3.12 Officers have important roles to perform, especially statutory ones and should be allowed to get on with them. Complaints about officers do not help in this. The Monitoring Officer (MO) must be recognised as independent of all Groups and indeed staff, and be allowed to get on with the job, without fear or favour. There is demonstrable cross-party and officer confidence and faith in the recently appointed MO which can only help with this.

4. Summary and Recommendations

4.1 Our overall finding is that the Council responded well to the PIR and has, overall, effectively fulfilled its Action Plan. There have been changes in policy and changes in (planned) practice. So, what may be termed, the “mechanistic” response to the PIR has been good.

4.2 What is less clear is whether the culture is changing enough (and if these mechanistic changes will in themselves generate that). There is only some small evidence of change and progress towards that longer term need for the rebuilding of trust.

4.3 There is clear personal responsibility in this. If the council is to draw a line under the past and move forward, some members need to change their behaviour and officers need to carry out their roles, and be allowed to carry out their roles, effectively.

4.4 As Mazars refer to in their PIR, similar issues around member behaviour have been cropping up in York for a long time. This has been under varying political control. This does underline the softer cultural point that the LGA team identified. Now is the time to draw a line under the past take the opportunity to reset relationships and to deal with these issues

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seriously and once and for all. The will to do this came through from the members and officers we spoke to on the day.

4.5 Our recommendations are:

1. Members must consistently act in line with the Members' Code of Conduct
2. The level and effectiveness of cross-party working must be developed further.
3. Strengthen the trust and relationships between members and officers; ensuring consistent following of the guiding principles in the protocol on officer/member relations and ensuring consistency of understanding around respective roles.
4. Members need to be consistently given, and to hear, the advice they need. The Council should ensure the role of MO and indeed all statutory officers are enabled and supported by other senior colleagues and respected by elected members
5. Councillors need to role model good, professional behaviour. On this front there needs to be strong leadership from influential councillors. Individual responsibility should be reinforced by colleagues, within and outwith Groups.
6. Instances of "feeding" information to people outside the council and encouraging them to "stir" urgently needs to stop, as this undermines trust and confidence within the council.
7. Member training records should be published to ensure members adhere to the need to be trained on key aspects of their role, especially when the council has deemed specific training to be mandatory.

4.6 To ensure effective improvement in these areas we would also recommend:

8. The Groups should co-design and help lead the delivery of effective post-election training with members around roles, code of conduct and behaviour, including the Nolan Principles.
9. The Council should produce a concise, focussed, longer term (3 year) and holistic, overall improvement plan which is clear about what success would look like around culture, behaviours, values and ethos.
10. The Council requests the LGA to deliver a Corporate Peer Challenge in the second half of 2023. This will help monitor progress post-election. Noting that the Council has not received one since 2016 and the recommended frequency is one every 4 or 5 years, this is overdue and timely.