



**Notice of a public meeting of
Audit & Governance Committee**

To:	Councillors N Barnes (Chair), Dew (Vice-Chair), Cuthbertson, Fenton, Flinders, Kramm and Steward (Substitute) and Mr Bateman and Mr Mendus
Date:	Wednesday, 22 February 2017
Time:	5.30 pm
Venue:	The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they might have in respect of business on this agenda.

2. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of Annex 1 of agenda item 5 on the grounds that it contains information relating to individuals. This information is classed as exempt under Paragraphs 1 & 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. Minutes (Pages 1 - 8)

To approve and sign the minutes of the meeting of the Audit & Governance Committee held on 8 February 2017.

4. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5:00pm on Tuesday 21 February 2017**.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

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The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at:

http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

5. Internal Audit Report on Procurement of Consultants (Pages 9 - 28)

This report informs Members of the results of a recent internal audit investigation into the procurement of an external consultant.

6. Mazars Procurement Issues Report (Pages 29 - 40)

The paper attached at Annex A to this report is from Mazars, the Council's external auditors, and reports on issues arising from the objection to the 2015/16 accounts. The report covers the work undertaken to investigate the issues raised by the objection and the key findings.

7. Procurement Action Plan (Pages 41 - 48)

This report considers the management response to the reports elsewhere on the agenda from Mazars, the Council's external auditors, and Veritau, the Council's internal auditors, on issues arising from the objection to the 2015/16 accounts.

8. Audit and Governance Committee Forward Plan to December 2017 (Pages 49 - 54)

This paper presents the future plan of reports expected to be presented to the committee during the forthcoming year to December 2017.

9. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – jayne.carr@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim (Polish)
własnym języku.

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Audit & Governance Committee
Date	8 February 2017
Present	Councillors N Barnes (Chair), Dew (Vice-Chair), Cuthbertson, Fenton, Flinders, Kramm and Lisle and Mr Bateman
In attendance	Councillor Doughty
Apologies	Mr Mendus

50. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. Councillor Kramm declared a personal interest in agenda item 6 (Procurement Report) as a trustee of St Nicks, which was involved in the tender for waste services.

51. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during consideration of Annex 3 to agenda item 8 (Counter Fraud Policy, Strategy and Risk Assessment) on the grounds that it contains information relating to the prevention, prosecution or investigation of crime. This information is classed as exempt under paragraph 7 of Schedule 12A to Section 100A of the Local Government 1972 (as revised by the Local Government (Access to Information (Variation) Order 2006).

52. Minutes

Resolved: That the minutes of the meeting held on 20 December 2016 be approved and then signed by the Chair as a correct record.

53. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme. Ms Gwen Swinburn stated that she was very concerned that £24m of council expenditure was not able to be audited. She referred to the budget proposals, which included provision for the appointment of an additional member of staff to the procurement team, and stated that she did not believe this to be sufficient. Ms Swinburn also raised concerns regarding the budget consultation and stated that citizens had not been given sufficient time to respond to the questionnaire that had been circulated

54. Mazars Audit Progress Report

Members considered a report from Mazars which reported on progress in delivering their responsibilities as external auditors. Gareth Davies, Partner at Mazars, went through the report.

Members were notified of an additional change within the audit team - Jon Leece would take over from Gavin Barker as Mazars Senior Manager in respect of work for City of York Council.

Councillor Dew informed Members that he had found the North Yorkshire Governance Forum, which had been arranged by Mazars, to be very useful.

Members questioned the representative from Mazars on the implications of the proposed change in respect of accounting for highways infrastructure on a depreciated replacement cost basis. They were informed that it was unclear when the required changes would now take effect but that the additional information required would be an extra burden for the Council. The Engineering Department were, however, preparing for the change to ensure that the core data was completed.

Resolved: That the report be noted.

Reason: To ensure Members are aware of Mazars progress in delivering their responsibilities as external auditors.

55. Procurement Report

Members considered a report which provided an overview of the procurement function. The report had been requested by the Committee at its meeting on 20 December 2016.

The Corporate Finance and Commercial Procurement Manager went through the key information in the report. Members' attention was drawn to paragraph 13 of the report, which outlined the steps that should be taken for various levels of expenditure. The officer stated that whilst there was always room for improvement, particularly in respect of document retention, significant progress had been made by the procurement team and she believed that robust arrangements were in place.

Members questioned the officer about the current staffing arrangements that were in place within the procurement team and the responsibilities of the proposed additional member of staff. In response to questions from Members, the officer also confirmed that, once the new appointment had been made, she was reasonably confident that there sufficient staff within the team. Members were informed that the responsibilities in respect of procurement rested with managers although the procurement team supported them in this process.

Members asked about the staff training that was available. They were informed that sessions were held on a monthly basis. The staff bulletin and the intranet were also used to raise awareness of procurement issues, and an iComply exercise was due to take place. Consideration was also being given to the development of e-learning on this issue.

Members asked about the ways in which non-compliance was identified and the action that was taken. They were informed that breaches were usually identified by the procurement team or by the internal auditors. The reasons for non-compliance were generally because the officer concerned had not been aware of the procedures. The procurement team offered support and guidance but if non-compliance was persistent this would be dealt with as a disciplinary issue. Members were informed that work was ongoing to improve the way in which the procurement team was able to identify cumulative spend more effectively.

The officer was asked about the issue that had been raised regarding procurement documentation not being available. She stated that there had been a significant progress in addressing this issue and that this improvement was continuing.

Members asked if consideration had been given to developing computerised systems to address some of the issues that had been raised. The officer confirmed that consideration had been given to different contract systems but these were quite expensive to purchase and maintain and hence would require a significant investment.

Members requested that they receive the following additional information¹:

- A more detailed breakdown of the identified breaches, as outlined in paragraph 15 of the report.
- Clarification as to whether waivers were identified on the Council's Contract Register.
- Details of the membership and terms of reference of the Internal Governance, Risk and Assurance Group.

It was agreed that it would be useful for a training session on procurement to be arranged for Members of the committee².

Resolved: That the report be noted.

Reason: To update the committee on procurement issues.

Action Required

1. Provide requested information
2. Arrange training session for Members

DM
DM, JC

56. Treasury Management Strategy Statement and Prudential Indicators for 2017/18 to 2021/22

Members considered the Treasury Management Strategy Statement and Prudential Indicators 2017/18 to 2021/22. The information included the:

- Integrated treasury management strategy statement including the annual investment strategy and the minimum revenue provision policy statement;
- Prudential indicators
- Revised treasury management policy statement
- Specified and non-specified investments schedule

- Treasury management scheme of delegation and role of the section 151 officer

Members noted a proposed policy change in minimum revenue provisions (MRP) policy, as set out in paragraphs 19 to 29 of annex 1 of the report. Members asked why the change was being proposed at this time. The Corporate Finance and Commercial Procurement Manager stated that the proposed change was considered to be more prudent than the previous policy and was based on advice from the Council's treasury management advisers. The current economic situation and the Council's particular circumstances made it an opportune time to make the change.

At the request of Members, the Corporate Finance and Commercial Procurement Manager clarified aspects of the borrowing strategy, as outlined in paragraphs 56 to 61 of the report. The officer was asked if the report took into account the international situation. Members were informed that the report had been written in December but that the Council's treasury management advisers kept the Council informed of international issues which could impact on borrowing and investments.

Resolved: That the treasury management strategy statement and prudential indicators for 2017/18 to 2021/22, as detailed in annex 1 of the report, be noted.

Reason: So that those responsible for scrutiny and governance arrangements are properly updated and able to fulfil their responsibilities in scrutinising the strategy and policy.

57. Counter Fraud Policy, Strategy and Risk Assessment

Members considered a report which gave details of potential fraud risks that the council is exposed to, and proposed activity to address those risks. The report also detailed a proposed new counter fraud and corruption policy, and a strategy, for the committee's comments.

Members were asked to comment on the counter fraud policy and corruption policy and associated prosecution policy at annex 1 of the report and on the proposed strategy at annex 2 of the report. They were also invited to comment on the fraud

risk assessment and proposed priorities for counter fraud work as set out in annex 3.

The Head of Internal Audit was asked if there were sufficient resources in place to implement the policies. He stated that he believed that the Council was doing everything possible and that the policies were based on best practice, including the Chartered Institute of Public Finance (CIPFA) guidance. He was satisfied that all reasonable steps were being taken to protect against fraud and that there was an appropriate level of resources. If additional resources were to be made available it would, however, enable more proactive work to be carried out, including data matching. The Head of Internal Audit stated that benchmarking was carried out with other local authorities and he was satisfied that the current allocation of time for fraud work was reasonable. The benchmarking data indicated that York was performing well in respect of fraud reduction when compared with other local authorities.

Members sought assurances that effective mechanisms were in place to enable incidents of fraud to be reported. They were informed that fraud reporting arrangements were publicised and campaigns held. Members were informed that incidents of fraud were reported in several ways, including referrals from managers, staff and the public.

Referring to the Fraud and Corruption Prosecution Policy (Annex A of the report), Members sought clarification as to the circumstances in which a prosecution would not be sought when incidents of fraud were identified. Members were informed that the Council had a zero tolerance approach to fraud although there may be some circumstances when it would not be appropriate to prosecute. The Internal Audit Team carried out the fraud investigations and made recommendations as to whether or not a prosecution should be sought. The Director of Customer and Corporate Services made the final decision regarding prosecutions. In response to questions from Members, the Director of Customer and Corporate Services stated that, in all cases to date, he had accepted the recommendation of the Internal Audit Team in respect of prosecutions.

[The press and public were excluded from the meeting whilst Members sought clarification from the Internal Audit Manager regarding several fraud areas detailed in Annex 3 of the report].

- Resolved: (i) That the proposed new counter fraud and corruption policy and associated prosecution policy, at annex 1 and annex 2, be noted.
- (ii) That the fraud risk assessment and proposed priorities for counter fraud work, as set out in annex 3 of the report, be noted.
- Reasons: (i) In accordance with the committee's responsibility for assessing the effectiveness of the Council's counter fraud arrangements.
- (ii) To ensure that scarce audit and counter fraud resources are used effectively.

58. Internal Audit Plan Consultation

Members considered a report that sought their views on the priorities for internal audit for 2017/18, to inform the preparation of the annual audit plan.

Members requested that consideration be given to including the following issues within the annual audit plan:

- Procurement breaches
- The effectiveness of the co-operative standing agreements (financial aspects) in the Health and Wellbeing Board
- Issues in respect of Ward Budget spending (it was noted that the Internal Audit Report on this issue was due to be presented to the committee)
- Safety protocols for public spaces and events
- Including in the proposed scope of the business continuity and emergency planning work, the implementation of recommendations arising from the Flood Inquiry

Members requested that, when the final Internal Audit Plan was presented to the committee, the covering report commented on the consideration that had been given to the suggestions put forward by Members and the reasons why they had or had not been included in the plan¹.

Resolved: That the proposed approach to internal audit planning for 2017/18, as set out in the report, be endorsed.

Reason: To ensure that scarce audit resources are used effectively.

Action Required

1. Include in report

MT

59. Audit and Governance Committee Forward Plan

Members considered a report which presented the future plan of reports expected to be presented to the committee during the forthcoming year to December 2017.

Members' attention was drawn the additional committee meeting that had been scheduled for 22 February 2017.

Resolved: That the committee's Forward Plan for the period up to December 2017 be approved.

Reason: To ensure that the committee receives regular reports and briefings in accordance with the functions of an effective audit committee and can seek assurances on any aspect of the Council's internal control environment in accordance with its roles and responsibilities.

Chair's Comments

Councillor Lisle informed the committee that this would be his last meeting as a member of the Audit and Governance Committee, as he would be taking up the position as Executive Member for Housing and Safer Neighbourhoods the following day. The Chair thanked Councillor Lisle for his work as a member of the committee and the contribution that he had made.

Councillor N Barnes, Chair

[The meeting started at 5.30 pm and finished at 7.45 pm].



Audit and Governance Committee

22 February 2017

Report of the Head of Internal Audit

Procurement of Consultants

Summary

- 1 This report informs members of the results of a recent internal audit investigation into the procurement of an external consultant.

Audit Findings

- 2 Internal Audit undertook an investigation into the awarding of contracts to an external consultant. The investigation found that there was no evidence to show that written quotations had been received. A number of other breaches of the council's Financial Regulations and Contract Procedures Rules were also identified including the absence of a signed contract, the failure to include the contract on the council's contracts register, a payment in advance of the work being completed and inadequate contract monitoring. There was no evidence of fraud.
- 3 The employee involved in the procurement exercise has now left the council but measures have been taken or are planned to improve the controls and process to prevent any possible recurrence. The detailed management action plan is later on the agenda. Progress will be reviewed by Internal Audit and a further audit of this area will be included in the 2017/18 Audit Plan.
- 4 A copy of the full report is included at exempt annex 1.

Consultation

- 5 Not relevant for the purpose of the report.

Options

- 6 Not relevant for the purpose of the report.

Analysis

- 7 Not relevant for the purpose of the report.

Council Plan

- 8 The work of internal audit and counter fraud helps to support overall aims and priorities by promoting probity, integrity and accountability and by helping to make the council a more effective organisation.

Implications

- 9 There are no implications to this report in relation to:

- **Finance**
- **Human Resources (HR)**
- **Equalities**
- **Legal**
- **Crime and Disorder**
- **Information Technology (IT)**
- **Property**

Risk Management Assessment

- 10 The council may suffer similar problems of non-compliance if measures are not taken to improve controls and processes in respect of procurement activity.

Recommendation

- 11 Members are asked to:

- (a) Note the findings of the internal audit investigation.

Reason

To enable members to consider the implications of audit findings.

Contact Details

Author:

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Veritau Limited
01904 552940

Chief Officer Responsible for the report:

Ian Floyd
Director of Customer & Corporate
Services
Telephone: 01904 551100

**Report
Approved**



Date 13/2/2017

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers

None

Exempt Annex

Annex 1 – Review of Procurement of Consultants

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Consultancy City of York Council

Strictly Private and Confidential

For: Director of C&CS, Head of Corporate Finance and Commercial Procurement
Manager
Status: Final
Date Issued: 10th November 2016

Where information resulting from investigation and/or audit work is made public or is provided to a third party by the client or by Veritau then this must be done on the understanding that any third party will rely on the information at its own risk. Veritau will not owe a duty of care or assume any responsibility towards anyone other than the client in relation to the information supplied. Equally, no third party may assert any rights or bring any claims against Veritau in connection with the information. Where information is provided to a named third party, the third party will keep the information confidential.

1 INTRODUCTION / BACKGROUND

- 1.1 In the past two years the council has received a number of Freedom of Information (FOI) requests regarding its expenditure on consultants, in particular consultant B.
- 1.2 As part of one of the most recent FOI requests (received by the council on 7 April 2016) a number of specific questions were asked about the way in which consultant B's contract had been procured. The original request was made using the WhatDoTheyKnow website so attracted interest from other residents. Concerns were subsequently raised with the members of the Audit & Governance Committee. The vice-chair of the Audit & Governance Committee in turn asked Internal Audit to investigate the matter further (the request was received by the Head of Internal Audit on 29 July 2016). The Head of Internal Audit discussed the concerns with the Director of C&CS and it was agreed that a detailed review should be undertaken.
- 1.3 The council's external auditors, Mazars also received an objection to the 2015/16 statement of accounts on 11 August 2016. The objection covered a number of issues including the council's apparent failure to carry out a procurement exercise prior to appointing consultant B and company C. The objection referred to the FOI request and related correspondence on WhatDoTheyKnow.

2. FINDINGS

Consultant B and Company C

- 2.1 Fifteen transactions [not including one cancelled PO] were identified on the council's financial system for consultant B between June 2013 and September 2014. The total value of these invoices was £67,254 (excluding VAT). The invoices were made up of claims for varying amounts of 'communications consultancy' charged at £400 a day. One invoice included £54 for the reimbursement of expenses. The payments equated to 168 days of work in the period. All transactions were invoices supported by purchase orders.
- 2.2 A further 11 invoices for consultant B's company, 'company C', were paid between 1 December 2014 and March 2016. The total value of these payments was £106,804.96 (excluding VAT). Most of the payments related to consultancy work charged at £400 a day. Other payments included 'costs and expenses associated with the MAB14 conference and UNESCO designation' - £1,274.96 and 'marketing/design resources for Services to Schools' - £5,000. The payments equated to approximately 250 days of work in the period.

Work performed by consultant B

- 2.3 Several areas of work have been identified as having been performed by consultant B either in his capacity as a self-employed contractor or through his company, 'company C'. These include:

- UNESCO City of Media Arts bid
- Rewiring transformation programme
- Support for Services for Schools
- All About Projects

2.4 There is evidence that consultant B was directly involved in these assignments, including documents being produced and passed back and forth for review, as well as staff testimony that consultant B was undertaking the work. The UNESCO bid was ultimately successful and the Rewiring transformation programme and new project management procedures (All About Projects) have been implemented by the council.

2.5 There is also reference on invoices and documentation to consultant B being involved in general support for the Communications team. This is more difficult to evidence as it appears that consultant B worked under the direction and management of employee A within the Office of the Chief Executive rather than as part of the Communications team. Consultant B did have a visible role within the council and interacted with many staff, including the Chief Executive and other chief officers.

Procurement

2.6 The response by the council to an FOI request dated 27 October 2014, identified employee A as the person responsible for the expenditure with consultant B, and identified the purpose of his appointment as being:

“to work on a variety of communications projects including the Re-wiring Public Services Programme and Unesco Media Arts”

The response listed the individual payments that made up the £67,254 paid to consultant B as an individual (see paragraph 2.1 above). The response to a further FOI request submitted on 18 July 2016, asking for all contracts procured by employee A in each of the last three years, did not list consultant B or company C. This was because the information had already been supplied in response to previous FOI requests, including by the same requestor.

2.7 Discussions with council officers during the Interims, Specialists and Consultants audit carried out in 2015/16 as well as enquiries made as part of this review identified employee A as the chief officer responsible for engaging consultant B. The expenditure was charged to his budgets and he authorised most of the payments to both consultant B and company C¹. However, no documentation was available to support the procurement process undertaken to appoint consultant B or to subsequently extend his engagement. The response to a FOI request received by the council on 18 July 2016 stated that

¹ One invoice was authorised by employee K

historical information on tender processes is not held for more than one year. However, the absence of documentation relating to the procurement process represents a breach of the council's Contract Procedure Rules. The response to the FOI request is also incorrect in this respect as Section 4.5 of the Contract Procedure Rules states:

"Full records of all contract documentation, quotations, estimates, tenders and any other correspondence pertinent to the award or acceptance of a Contract must be kept by Commercial Procurement for the duration of the Contract and a minimum of six years after the Contract has been concluded or twelve years after the Contract has been concluded where it is executed under common seal as a deed."²

- 2.8 Employee A ceased to be employed by the council on 31 March 2016. As employee A was no longer in post and had not retained any documentary evidence to support the procurement process a search of employee A's Outlook email account was undertaken for relevant information using key words such as 'quotation', 'tender' and 'contract' as well as terms relating to consultant B and company C. Only a small number of emails on any subject remained from before 2014 and none were found that related to a quotation exercise to select consultant B. Emails appear to have been deleted en masse rather than selectively and so the deletion is unlikely to represent a deliberate attempt to conceal evidence. Payments to consultant B as an individual started prior to 2014. Given the absence of any emails on the subject it is unlikely that written quotations will be located for the appointment of consultant B even if they were originally obtained by employee A.
- 2.9 As noted in paragraph 1.3 above, Mazars received an objection to the 2015/16 statement of accounts. Following this, the Head of Corporate Finance and Commercial Procurement Manager contacted both ex-employee A and consultant B. Verbal confirmation was provided to her that three written quotations had been obtained before consultant B was appointed.
- 2.10 As part of this review ex-employee A was contacted again and asked to provide further information regarding the procurement processes followed to appoint consultant B and company C. To date no response has been received.
- 2.11 The lack of information and evidence available after employee A's departure emphasises the need for procurement information to be retained centrally, in line with the Contract Procedure Rules. The council has acknowledged that the contracts relating to consultant B and company C were not recorded on its contracts register. This omission was recorded as a breach of the Contract Procedure Rules and reported to the C&CS management team in May 2016. This led to further discussions and actions being agreed including;
- A review of the authorisation levels of all managers

² Section 4.5 Records

- Delivery of a comprehensive training programme for all staff
- A review of the contract procedure rules
- A strengthening of the procurement function with additional resources

2.12 The first invoice from consultant B under the name of company C is dated December 2014. No written quotations or reference to any related procurement have been found. A document entitled 'Consulting Agreement', dated 22 October 2014, between the council and company C exists. However, it is unclear who saw the document or if it was agreed and signed. The agreement was for 6 months, and the services to be delivered as set out in the agreement were:

- *Marketing and communications. These services will include the strategy and planning for the internal and external communication of the Rewiring transformation programme, overseeing its execution, and developing new platforms for future dialogue with residents, communities, businesses and staff. It will also involve assisting the Communications team with other projects, such as the UNESCO City of Media Arts application, as and when required.*
- *The Services will also include any other tasks which the Parties may agree on. The Professional Service Company hereby agrees to provide such Services to the Customer.*

2.13 An email was also located in employee A's emails which had been sent from consultant B to XXXXXXXXX, Procurement on 22 April 2015 (6 months after the date of the Consulting Agreement). The email was copied to employee A and stated:

"I am contracted by employee A to work in the Communications team. I've been asked to send you deliverables for a new contract - please find these below.

Internal and external communications planning and delivery for the Rewiring transformation programme

- *Oversee and co-ordinate internal communications plan for the organisation (Q2 2015)*
- *Launch of Rewiring 'champions' and support delivery of project training (Q2 2015)*
- *Define, development and deliver Phase 2 of Rewiring communications (Q2 2015) including an Employee Handbook, refreshing organisation values, vision, priorities, expectations and HR support*
- *Brief and co-ordinate supporting marketing activity for new www.york.gov.uk website (Q2 2015)*
- *Source and publish minimum of 10 new Rewiring articles per month to keep stakeholders up-to-date and engaged with the programme (as and when required)*

- *Assist CMT and Service to City with toolkits and presentations to share progress with the organisation (as and when required)*
- *Contribute to Cabinet reports and community engagement on individual proposals (as and when required)*
- *Define, development and deliver Phase 3 of Rewiring communications (Q3 2015)*
- *Define, development and deliver Phase 4 of Rewiring communications (Q4 2015/Q1 2016)*

Support internal and external communication of new Council Plan (May/June/July 2015)

Support internal and external communication plan for the new Community Stadium (Q4 2015/Q1 2016, key deliverables to be confirmed)

Support internal and external communication plan for major brownfield developments (Q4 2015/Q1 2016, key deliverables to be confirmed)

Ongoing support for Communications team on other projects (as and when required)

Support for community engagement and consultations on other projects (as and when required)”

This contract could not be found during the Interims, Specialists and Consultants audit in 2015/16. No information was found during the search of employee A's emails relating to the end of the Consulting Agreement, any new procurement exercise or the decision to continue to engage consultant B / company C after April 2015. Further investigations as part of this review have been unable to uncover any records elsewhere. The Interims, Specialists and Consultants audit, finalised in November 2016 made a number of recommendations about the need to improve the existing procedures for engaging consultants.

Financial Regulations Breaches

- 2.14 The payments to consultant B and company C together totalled in excess of £174k. As the elements of work were similar in nature consideration should have been given to possible aggregation of spend. Taken on its own, the work undertaken by consultant B as a self employed contractor required council officers to follow the procedures set out in the Contract Procedure Rules for expenditure between £5,000 and £100,000. Officers are required to invite a minimum of three written quotations from suitable potential suppliers (see appendix 1 for the relevant extract from the Contract Procedure Rules). No evidence has been found to support the claim that the requirements of the Contract Procedure Rules were followed (see paragraph 2.9 above), and no members of staff spoken to as part of this review were aware of such an exercise being undertaken. At best this represents a failure to be transparent and to retain all relevant procurement documentation. However, it seems

likely that there was a failure to follow proper procurement processes including obtaining written quotations, ensuring sufficient potential suppliers were approached and agreeing a formal contract.

- 2.15 Excluding possible issues relating to aggregation of spend, the work undertaken by consultant B through his company, 'company C' required council officers to follow the procedures set out in the Contract Procedure Rules for expenditure over £100,000. During the period the requirements as set out in the Contract Procedure rules underwent revision. However, the minimum requirement at the time was that 3 written tenders should be obtained. No evidence of such an exercise has been located, or supplied to the Corporate Procurement team when requested. As with the expenditure outlined in paragraph 2.14 above, this is at best a failure to be transparent and to retain all relevant procurement documentation. However, it seems likely that there was a failure to follow proper procurement processes including obtaining written quotations, ensuring sufficient potential suppliers were approached and agreeing a formal contract.
- 2.16 As noted above, the combined expenditure on services provided by consultant B and company C exceeded £174k. The current EU threshold for the procurement of services is £164,176. As the expenditure covered several individual and discrete projects it is unlikely that there has been a breach of EU regulations. However, no evidence was found of the issue of aggregate spend being considered or its possible impact with regards to the council's Contract Procedure Rules or EU procurement regulations.
- 2.17 The Contract Procedure Rules require officers to consider whether there is an appropriate Internal Service Provider, existing Contract, approved Framework Agreement or Dynamic Purchasing System which could be used prior to any procurement exercise. In the case of consultant B no written record could be found that these options had been considered, although the expenditure started prior to the earliest emails remaining in employee A's Outlook account. An email sent by employee A to the then Chief Executive, Corporate Director – C&CS and Assistant Director – Health and Wellbeing dated 17 June 2015 was located that attempted to justify the use of several of consultants after they had been engaged to carry out work for the council. However, the email did not mention consultant B. As a minimum we would have expected employee A to prepare a business case for his line manager setting out the budget, required deliverables, timescales etc before considering which procurement route to follow for each consultant. In addition, we would have expected employee A to seek professional advice from the council's Corporate Procurement Team to assess the options available. There is no evidence that this was done.
- 2.18 The last PO for consultant B was approved by employee A in March 2016. This PO was raised and paid prior to the work being completed. This represents a breach of the council's Financial Regulations. Part 4 section 21 of the Financial Regulations state:

“Payments in advance must be avoided except where this is the accepted practice for the type of expenditure involved”

No justification for authorising the payment in advance was given. There is also no obvious reason why such a payment was required as consultant B's invoices had all previously been paid in arrears.

- 2.19 Although there is a lack of clarity surrounding the rationale for appointing consultant B and the procurement process followed there is evidence that he undertook work for the council, as outlined in paragraph 2.3 above. We have not attempted to assess whether the work done and expenditure incurred represented value for money although we would have expected employee A to do this as the commissioning manager.
- 2.20 Attempts were made to obtain information showing the number of times and dates that consultant B was at the West Office from door entry logs and network access logins, however this information is only retained for 3 months and could not be provided.
- 2.21 In general there was no evidence of any formal contract monitoring for the work being done by consultant B. We would have expected to see regular progress and completion reports. There was also a general lack of formality with the working arrangements for consultant B and no apparent recognition within the council that his services were costing the council £400 per day. The impression was that consultant B was acting as a council employee, attending meetings and providing support as requested. An exception to this was for the last assignment – Services for Schools which was charged at a fixed rate.

Response of other Council Officers

- 2.22 Several opportunities for the council to identify errors in the procurement process were missed. Employee A received an email from XXXXXXXXX Officer about company C in March 2015. This was 5 months after the date on the draft Consulting Agreement (see paragraph 2.12 above). The XXXXXXXXX Officer asked:

“you have authorised an order for £30k for the above supplier and I would like to know how you procured the service for working in the communication team and if you have a contract in place please?”

Employee A responded to say he would need to investigate. However, no further email correspondence on this subject was found. This email came after another email on the same day from the same XXXXXXXXX Officer asking:

“I am just looking at my monthly purchase order report and notice that you have authorised orders for the above supplier for £15,500 covering November until March 2015 for consultant D to work on a business case for Building Services and an invoice for £4,750 for Transformation support services for October 2014. Can you tell how you procured these services, was it three quotes? If so do you have the information on the other quotes please? Also as

we have to make sure all our contracts over £5k are on a contracts register for the public to see as per the data transparency act have you got a contract for this work?"

The response from employee A was:

"Just part of the ongoing work that V4 have done for the transformation programme. There [sic] work has now finished."

No further responses to these have been located using a related email search of employee A's emails.

- 2.23 These emails indicate that the processes within the council that identify out of contract spend were operating in this case. Employee A also received emails from the Head of Corporate Finance & Commercial Procurement Manager asking for information on expenditure in August 2015; and an email from the Head of Business HR, originating from the Director of C&CS in August 2015 to confirm on behalf of members that the consultants had now left the council, to which employee A responded with an update on the status of several consultants and ended his response with:

"So the only outstanding one is consultant B. I will review with Debbie. We are using the itravel monies to pay him and will absorb the itravel work in the main comms team. But I am aware that he has to leave, as is consultant B."

Employee A also received enquiries from a councillor in August 2015, who subsequently chased a response in February 2016 enquiring on the work being undertaken by consultant B, and when consultant B would be finishing. Employee A replied but initially provided limited information.

- 2.24 These instances of correspondence show that employee A received some challenge over the expenditure on consultant B, and that there were attempts by council officers to put proper documentation in place. Ultimately these were unsuccessful.

Other expenditure to related suppliers

- 2.25 The council has made payments to several organisations connected to consultant B:
- £4,563.13 to company E between April and September 2010
 - £101,234.99 to company F between January 2012 and December 2014
 - £45,706.84 to company G between June 2013 and December 2015
- 2.26 The company E transactions relate to a magazine in which the council paid for content. Consultant B was a founding director of company E, which was incorporated in September 2009 and dissolved in December 2011. There were 11 payments for adverts in the magazine, totalling £4,563.13. The costs were coded to 4 departments – Arts and Culture, Transport Planning, Sport & Active Leisure and School Services. Employee A's name does not appear on

the invoices. One of the invoices on FMS has the narrative '1st of 2nd paym – UNESCO Creative City bid' (dated 1/11/2010). The invoice itself has the narrative 'Feature in xx Magazine – Nov/Dec issue'. There does not appear to have been a 2nd payment. As the expenditure was under £5,000 the relevant departments were required to obtain best value and make of note of their decisions. There was no requirement to obtain written quotations.

- 2.27 Consultant B was also a founding director of company F from August 2011 until his resignation in January 2014. There are 54 transactions recorded in the financial ledger for company F from January 2012 to December 2014, totalling £101,234.99. Most of the transactions relate to the CYC content in the xx magazine. The transactions are broken down by Directorate, number and amount in the table below:

Directorate	Number	£
CANS	16	£4,495
C&CS	2	£5,250
CES	14	£8,320
OCE	22	£83,169.99

As a minimum we would have expected 3 written quotations to be obtained but given the likely level of expenditure over the period formal tenders would have been more appropriate. Any exercise, if it was undertaken by employee A would have occurred in the time in which no emails remain (see paragraph 2.8 above).

- 2.28 Consultant B was also a founding director of company G from February 2013 until his resignation in June 2014. There are 9 transactions for company G between September and December 2015, totalling £45,706.84. Two of these were coded to the OCE- Office of the Chief Executive directorate, with the others coded to CES – Transport and Development.

One of the POs was marked 'FAO employee A' with a narrative of 'Video production for Lendal Bridge trial' on the PO and 'Payment to consultant B for Lendal Bridge video' on FMS, with a value of £10,906.84. The other payments related to videos for events involving the council such as the 20 miles an hour campaign, the International Fairness Conference and iTravel. Four of the POs, totalling £21,406.84 were raised during the period consultant B was at company G. This level of expenditure required 3 written quotations to be obtained. During the search of employee's email account for 'tender' it was found that company G had attempted to tender for the webcasting of council meetings following the departure of employee A, however they were not successful.

- 2.29 A search was made of the council's systems for other companies connected to consultant B as listed at Companies' House, (company H, company I, and company J). No other transactions were identified. Searches were also made using addresses, post codes, VAT numbers and bank account details from consultant B and company C. No other transactions were identified.

APPENDIX 1 – CONTRACT PROCEDURE RULES EXTRACTS

9.3 Procurement over £5,000 and under £100,000

- 9.3.1 In relation to all procurements with a value over £5,000 and under £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract, approved Framework Agreement or Dynamic Purchasing System which can be used.
- 9.3.2 Where no appropriate Internal Service Provider, existing Contract or approved Framework Agreement or Dynamic Purchasing System exists, if the estimated value of a Contract exceeds £5,000 but is less than £100,000 a minimum of three written quotations must be invited from suitable potential providers. Efforts should be made to ensure that a diverse group of suppliers are asked to quote using the following principles:
- (a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;
 - (b) Where possible, ensuring local suppliers are invited to quote;
 - (c) Not just inviting the same group of suppliers who have previously quoted for this or previous similar work;
 - (d) Looking for novel or new suppliers where suitable
- 9.3.3 The written quotes must be obtained and documented in accordance with proper record keeping set out in Rule 4 and in accordance with the requirements of Rule 12.
- 9.3.4 All potential providers invited to submit quotations shall be provided in all instances with identical information and instructions.
- 9.3.5 The evaluation of the quotations shall be carried out by Authorised Officers.
- 9.3.6 Regardless of the procurement method used, the Delegated Decision to undertake a procurement of this value will generally be an Authorised Officer decision unless the decision maker considers that it will have significant impact. This is just general guidance and Authorised Officers should have regard to the Council's Constitution when deciding what kind of Delegated Decision applies.

9.4 Procurement over £100,000

- 9.4.1 In relation to all procurements with a value in excess of £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract or approved Framework Agreement or Dynamic Purchasing System which can be used.
- 9.4.2 Where no appropriate Internal Service Provider, existing Contract, approved Framework Agreement or Dynamic Purchasing System exists, competition is required for procurements over £100,000.
- 9.4.3 Where there are sufficient numbers of potential Providers, at least four written tenders shall be invited. Efforts should be made to ensure that a diverse group of suppliers are asked to tender using the following principles:
- (a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;
 - (b) Where possible, ensuring local suppliers are invited to quote;
 - (c) Not just inviting the same group of suppliers who have previously quoted for this or previous similar work;
 - (d) Looking for novel or new suppliers where suitable
- 9.4.4 The tendering process shall be conducted in accordance with the Council's detailed procedure rules set out in the Procurement Toolkit. Authorised Officers should consult with Commercial Procurement to establish the most appropriate tendering process/procurement route which will be determined on a case by case basis (depending on a number of factors including but not limited to the scope, value and technical requirements of the procurement).
- 9.4.5 All tenders and awards must be documented in accordance with Rule 4.
- 9.4.6 Where the estimated contract value reaches the relevant EU Threshold, Rule 9.6 will also apply and officers must seek guidance from the Procurement team before commencing any procurement process
- 9.4.7 Where the estimated contract value reaches £250,000 or more, Rule 7 will also apply.

4. Records

- 4.1 The Public Contracts Regulations require contracting authorities to maintain the following comprehensive records of procurement activities:
 - 4.1.1 contract details including value;
 - 4.1.2 selection decision;
 - 4.1.3 justification for use of the selected procedure;
 - 4.1.4 names of bidding organisations, both successful and unsuccessful;
 - 4.1.5 reasons for selection;
 - 4.1.6 reasons for abandoning a procedure.
- 4.2 The outcome of any competitive procurement process must be recorded in electronic format on YORtender. Information from YORtender will also be used for the tracking of procurement savings, sustainability benefits, and other data.
- 4.3 Commercial Procurement will also maintain the Contract Register which will record key details of all Contracts (including contract reference numbers) with an aggregate value of £5,000 or more or such other value as the Chief Finance Officer may agree from time to time.
- 4.4 Where a Contract has not been awarded using YORtender, Officers must ensure full details of that Contract are passed to the Chief Procurement Officer for inclusion in the Contract Register where the aggregate value of the Contract is £5,000 or more or such other value as the Chief Finance Officer may agree from time to time. Decisions as to why YORtender was not used must be recorded in writing and sent to Commercial Procurement.
- 4.5 Full records of all contract documentation, quotations, estimates, tenders and any other correspondence pertinent to the award or acceptance of a Contract must be kept by Commercial Procurement for the duration of the Contract and a minimum of six years after the Contract has been concluded or twelve years after the Contract has been concluded where it is executed under common seal as a deed.
- 4.6 It is the responsibility of Chief Officers to ensure that all Contracts are properly entered into, administered and controlled to safeguard the Council's interests, secure Best Value and minimise the risk of theft, fraud and corruption.

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Audit and Governance Committee22nd February 2017

Report of the Director of Customer & Corporate Services

Mazars Procurement Issues Report**Summary**

1. The paper attached at Annex A from Mazars, the Council's external auditors, reports on issues arising from the objection to the 2015/16 accounts. The report covers the work undertaken to investigate the issues raised by the objection and the key findings.

Analysis

2. Mazars considered two procurements raised in the objection, received representations from officers and discussed the issues raised with the Council's internal auditors, Veritau.
3. Their findings are that the Council could properly support the procurement processes in relation to one of those procurements, but was unable to provide evidence to support the procurement processes in relation to one local supplier for consultancy work. This was because the officer who led this procurement did not retain the relevant records and has now left the employment of the Council.
4. The Director of Customer and Corporate Services (CCS) had already asked Veritau to undertake a detailed review into the issues that arose from this procurement and Mazars have reviewed the detailed investigation report produced by Veritau and, based on their discussions and review of that report, are satisfied that Veritau have carried out a comprehensive review and reached reasonable conclusions based on the evidence available.
5. The report also acknowledge that whilst the Veritau report identifies a number of breaches of Financial Regulations and Contract Procedure Rules in relation to the procurement processes, these issues had

already been identified by the Council and actions were in progress prior to the commencement of the Veritau review.

6. They conclude that, whilst the objector has raised some valid concerns around the procurement processes in the case of the payments to the local supplier for consultancy work, they do not intend to issue a report in the public interest. This is because they have recognised that a comprehensive action plan is in place to address the issues. The Veritau report notes that the Council had already agreed and begun to deliver a comprehensive range of actions to address the issues arising and Mazars have no additional recommendations to make.

Consultation

7. Extensive consultation has taken place with Veritau and a range of Council officers.

Options

8. Not relevant for the purpose of the report.

Analysis

9. Not relevant for the purpose of the report.

Council Plan

10. This report contributes to the overall effectiveness of the council's governance and assurance arrangements contributing to an 'Effective Organisation'.

Implications

11. There are no implications to this report.

Risk Management

12. Not relevant for the purpose of the report

Recommendations

13. Members are asked to:

- a) note the matters set out in the report presented by Mazars;

Reason

To ensure Members are aware of the issues and the action already being taken by the Council.

Contact Details

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Chief Officer Responsible for the report:

Ian Floyd
Director of CCS
Telephone: 01904 551100

**Report
Approved**



Date 14 February 2017

Specialist Implications Officers

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A - Mazars Procurement Issues Report February 2017

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Procurement Issues

City of York Council – year ended 31 March 2016

February 2017



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Our reports are prepared in the context of the ‘Statement of responsibilities of auditors and audited bodies 2015-16’ issued by Public Sector Audit Appointments Ltd. Reports and letters prepared by appointed auditors and addressed to Members or officers are prepared for the sole use of the Council and we take no responsibility to any Member or officer in their individual capacity or to any third party.

Mazars LLP is the UK firm of Mazars, an international advisory and accountancy group. Mazars LLP is registered by the Institute of Chartered Accountants in England and Wales.

01 Executive summary

Background to this issue

We received an objection to the 2015/16 accounts from a local elector.

A number of issues were raised, some of which did not meet the criteria for a valid objection. We can only consider an objection to specific items of account (which means financial entries in the accounts) in the relevant year, in this case 2015/16.

Two of the points identified did relate to specific items of account and we therefore considered them as a valid objection:

- the procurement process in relation to a corporate spending review by a major accountancy firm (£18,000 plus recoverable VAT was paid for this work in 2015/16); and
- the procurement process in relation to payments to a local supplier for consultancy work (£56,000 plus recoverable VAT was paid for this work in 2015/16, with additional payments made in other financial years).

The objector did not ask that we consider an application to the Courts that an item of account is contrary to law, but did ask whether we would be issuing a public interest report in response to the objection. This report sets out our findings in relation to issues raised in the objection, and our conclusions on the action required.

We considered the issues raised in the objection under the Local Audit and Accountability Act 2014, the Code of Audit Practice and related guidance issued to auditors by the National Audit Office.

Work undertaken and key findings

We considered the two procurements raised in the objection, received representations from officers and discussed the issues raised in relation to payments to a local supplier for consultancy work with the Council's internal auditors, Veritau.

Our findings were that the Council could properly support the procurement processes in relation to the corporate spending review by a major accountancy firm, but was unable to provide any evidence to support the procurement processes in relation to the payments made to a local supplier for consultancy work. This was because the officer who led this procurement did not retain any relevant records and has now left the employment of the Council.

Consequently, Veritau agreed with the Director of Customer and Corporate Services (CCS) to undertake a detailed review into the issues that arose from this procurement. To minimise the costs of our work to the Council, we did not seek to duplicate work undertaken by Veritau. We reviewed the detailed investigation report produced by Veritau and based on our discussions and our review of their report, we are satisfied that Veritau have carried out a comprehensive review and reached reasonable conclusions based on the evidence available. Their report identifies a significant number of breaches of Financial Regulations and Contract Procedure Rules in relation to the procurement processes surrounding the commissioning of this particular local supplier for consultancy work and notes that these issues had already been identified by the Council and actions were in progress prior to the commencement of the Veritau review.

Our view is that the matters arising from this review are serious and robust action is necessary to prevent a recurrence of these failings. We also note the findings set out in the internal audit report on sub-contracting arrangements in civil engineering and building maintenance presented by Veritau to the Audit and Governance Committee on 28 September 2016. Whilst focused on an unrelated service area, the report identified examples of

missing and incomplete contract documentation for subcontractors. In our view, this indicates that a strengthening of council-wide arrangements in this area is required.

Management has begun to strengthen the arrangements in place and the Veritau report includes details of the actions that had already been agreed by management and which will require follow up.

We understand that Veritau will be presenting a summary of their work and details of progress to date on the agreed action plan to the Audit and Governance Committee and in our view it is appropriate for the Committee to consider the findings and conclusions from the review and agree an appropriate way forward.

Conclusions

Our conclusion is that the objector has raised some valid concerns around the procurement processes in the case of the payments to the local supplier for consultancy work. These payments amounted to some £56,000 plus recoverable VAT in the 2015/16 financial year. We note that over a longer period, the payments totalled £174,459 plus recoverable VAT.

In this instance we do not intend to issue a report in the public interest. The principal reason for this is that we have concluded that processes are in place, through the detailed investigation by Veritau and the planned reporting to the Audit and Governance Committee, to address any issues arising from this case. The Veritau report notes that the Council had already agreed and begun to deliver a comprehensive range of actions to address the issues arising and we have no additional recommendations to make. Veritau will follow up on the implementation of these actions in their future audit programme.

We have issued this report as a normal audit report to summarise our findings. We intend to present this report at the same meeting of the Audit and Governance Committee that will receive Veritau's summary report, and the findings will consequently be in the public domain.

02 Detailed considerations

Procurement processes in relation to the corporate spending review

The objection related to work commissioned by the then Chief Executive to carry out a corporate spending review. The value of the work was £18,000 plus recoverable VAT.

The Council provided us with the following evidence supporting the procurement and payment for this work:

- a 'Corporate Spending Review – Request for Quotation' document, setting out the procurement process to be followed, dated January 2015;
- copies of the proposals submitted by three bidders (four firms were invited to quote, but only three responded);
- a summary of the bids and an evaluation of the bids received; this confirmed that the accountancy firm awarded the work had the highest score on an assessment of quality and price; the firm awarded the work were also the lowest price of the three proposals received;
- a copy of the signed contract dated 7 April 2015;
- a copy of a draft report as the outcome of the review; we understand that following the departure of the then Chief Executive the new Interim Chief Executive chose not to pursue this review further; and
- an invoice dated 22 May 2015, which was paid in 2015/16 and hence included in the 2015/16 accounts.

We are satisfied that the procurement process was appropriate and in accordance with the Council's Contract Procedure Rules. There is sufficient evidence to show that the work was awarded to the winning bidder following a proper procurement and evaluation process.

Procurement processes in relation to payments to a local supplier for consultancy work

The objection related to work commissioned through a senior manager (a senior officer who has now left the Council). It was commissioned over a number of years from a local consultant as several smaller packages of work, but the amount was significant over a 4 year period. Work was awarded to the consultant as an individual and later to a company that had been established where the consultant was Managing Director. The work was for marketing and communications support for the Council and for a number of packages of related work.

We were provided with an analysis of payments as follows:

Payments to the consultant in their individual capacity:

2013/14	£33,200
2014/15	£34,054
	—————
Total	£67,254

Payments to the company where the consultant was Managing Director:

2014/15	£40,805	
2015/16	£56,600	
2016/17	£9,400	

Total	£106,805	(all amounts net of VAT recovered)

In terms of the objection, we can only consider the payments in the year of account, which were £56,600 for the 2015/16 financial year.

However, we sought a response from the Council in relation to the totality of the work so that we could understand the wider context of this work and any issues arising from it.

The Council's response

We were provided with invoices supporting the payments, but the Council explained that it was unable to provide the relevant documentation for the procurement exercise. This was because the officer who led this procurement did not retain any relevant records and has now left the employment of the Council. It was reported that management had subsequently spoken to both the former employee and the supplier, and that verbal assurances had been received of the processes that were followed.

There was a recognition that this was not a satisfactory situation and we were provided with the following explanation of the way the issues arising had been handled and the steps that were being considered:

“The Council acknowledges that these contracts were not recorded on its contract register and therefore this was recorded as a breach of the Contract Procedure Rules and reported to the CBSS management team (who receive any breach details) in May 2016. As the relevant work had been completed by this time, and no further work was planned with this supplier, and the officer had left the Council, it was agreed that no specific action was possible on this occasion, but that the following should be considered:

- *A further council wide training programme should be provided to ensure all officers are reminded of their responsibilities in relation to procurement*
- *A review of spending authority levels of individual officers should be undertaken*

In addition following the various requests for information both under the inspection of the accounts and other queries that have been raised through the Freedom of Information Act, we recognise that there are some areas where improvements can be made. Therefore during 2016/17 further work will be undertaken by both the legal and procurement teams to:

- *Support managers to improve the recording and retention of supporting documentation, including quotes received*
- *Ensure electronic copies of final contracts are held in a shared location, in order to prevent problems occurring when individual officers leave the authority.”*

The actions set out in this response have been further developed by management and form the basis of the action plan included within the Veritau report.

Work by the Council's internal audit supplier, Veritau

We discussed this particular procurement with Veritau. Veritau explained that they were carrying out an ongoing investigation into the issues raised, as requested by the Director of CCS following the initial identification and reporting of the breach by CYC officers. We did not seek to duplicate work that had been or was being undertaken by Veritau. Veritau have subsequently shared their detailed report with us.

We reviewed the report produced by Veritau and based on our discussions and our review of their report, we are satisfied that Veritau have carried out a comprehensive review and reached reasonable conclusions based on the evidence available. Their report identifies a significant number of breaches of Financial Regulations and Contract Procedure Rules in relation to the procurement processes surrounding the commissioning of this particular local supplier for consultancy work:

- There was no evidence of a quotation exercise for any of the work;
- There was no contract in place for any of the work;
- The work was not recorded on the contracts register;
- No documentation was retained for the procurement of any of the work;
- There was no recorded consideration of whether there was an internal service provider, existing contract, or approved framework agreement that could have been used to procure any of this work;
- There was a lack of formal contract monitoring for any of the work; and
- The final payment made in relation to the work was paid in advance of the work being completed.

Our conclusions

The Council's Financial Regulations and Contract Procedure Rules are a significant element of the Council's systems of internal control and corporate governance arrangements. They are designed to ensure that the Council conducts its financial affairs properly, and among other things, adherence to these procedures serves to protect the Council, its officers and its contractors and suppliers against charges of impropriety, fraud and corruption.

In the case of the particular procurement of consultancy services from a local supplier, there was a failure to maintain any records for the procurement process over a protracted period by the relevant officer.

The Council has been exposed to allegations of fraud and corruption on this matter. Even though such allegations may be unfounded (and we are not aware of evidence to support them), the Council is unable to fully defend its position because of the lack of supporting records. As well as breaching the Council's rules, this is potentially damaging to the Council's reputation.

Our view is that the matters arising from this review are serious and robust action is necessary to prevent a recurrence of these failings.

Management has begun to strengthen the arrangements in place and the Veritau report includes a comprehensive action plan which will require follow up.

We understand that Veritau will be presenting a summary of their work and a copy of the agreed action plan to the Audit and Governance Committee and our view is that it is appropriate for the Committee to consider the findings and conclusions from the review and agree an appropriate way forward.

Should you require any further information on this letter or on any other aspects of our work, please contact:

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Audit and Governance Committee22nd February 2017

Report of the Director of Customer & Corporate Services

Procurement Action Plan**Summary**

1. This report considers the management response to the reports elsewhere on this agenda from Mazars, the Council's external auditors, and Veritau, the Council's internal auditors, on issues arising from the objection to the 2015/16 accounts.

Background and Analysis

2. An issue regarding the procurement of one consultant had initially been identified by the procurement team in March 2016. As the correct procurement documentation had not been retained the item was logged as a breach of the Contract Procedure Rules on 18th March 2016 and reported to Customer & Corporate Services Management Team on 12th May 2016. A range of actions was discussed and agreed at this meeting, including;
 - A review of the contract procedure rules (subsequently agreed by Audit & Governance Committee on 22nd June 2016);
 - A further council wide training programme to remind all officers of their responsibilities in relation to procurement;
 - A review of the delegated authority levels of individual officers;
 - The need to support managers in improving both the recording and retention of supporting documentation and final contracts.
3. The Director of Customer & Corporate Services also requested a further review of the procurement by Veritau. Work on this began in August 2016 with a draft report issued in November 2016.
4. The work being undertaken by the procurement team has now been formally incorporated into an action plan, which is attached to this report. The majority of the actions have been completed within the agreed timescales.

5. One item that remains outstanding relates to the retention of contract and procurement route documentation. The procurement team is actively working with IT colleagues to identify a suitable solution. We expect this to be resolved imminently, but it has not been possible to deliver this by the 31st January as originally intended.

Consultation

6. Extensive consultation has taken place with Veritau and a range of Council officers.

Options

7. Not relevant for the purpose of the report.

Council Plan

8. This report contributes to the overall effectiveness of the council's governance and assurance arrangements.

Implications

9. There are no implications to this report.

Risk Management

10. Not relevant for the purpose of the report

Recommendations

11. Members are asked to:

- a) note the action plan attached at Annex A and the progress achieved to date;

Reason

To ensure Members are aware of the action being taken by the Council.

Contact Details

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Ian Floyd
Director of CCS
Telephone: 01904 551100

**Report
Approved**



Date 14 February 2017

Specialist Implications Officers

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Action plan

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**Procurement of consultants – internal audit review
Agreed action plan – November 2016**

Action Number	Item	Agreed Action	Stages/Progress	Priority	Responsible Officer	Timescale
1	Review of Contract Procedure Rules (CPRs)	<p>The Council's CPRs will be reviewed and updated to</p> <ul style="list-style-type: none"> strengthen the section on waivers include the use of Dynamic Purchasing Systems in the section on using frameworks clarify the additional requirements when there is an incumbent supplier encourage the use of local suppliers and smaller businesses where appropriate to do so 	<ul style="list-style-type: none"> Review CPRs Take to Audit and Governance committee for approval 	3	Finance & Procurement Manager	Complete
2	Delivery of comprehensive training programme.	<p>The Council will develop a mandatory training programme to ensure all staff aware of the procurement processes and rules.</p>	<ul style="list-style-type: none"> Use of i-comply to inform all staff of the key rules Delivery of face to face training sessions – to be held on a monthly basis Work with comms team to add in bite sized items to Buzz 	3	Finance & Procurement Manager	<p>31st March 2017</p> <p>Nov 2016</p> <p>31st March 2017</p>
3	CMT to discuss procurement arrangements.	<p>Discussion paper to Council Management Team (CMT) highlighting current procurement activity.</p>	<ul style="list-style-type: none"> Schedule regular attendance of the procurement team at DMTs 	3	Finance & Procurement Manager	To be included in DMT forward plans by 31 st

Action Number	Item	Agreed Action	Stages/Progress	Priority	Responsible Officer	Timescale
		CMT discussed on 26 th October and agreed all the recommendations.	<ul style="list-style-type: none"> CMT endorse support for the training programme CMT confirm support for the procurement team in its compliance function 			December 2016 Complete Progress report to CMT in April 2017
4	Review of delegated authority levels.	Review of all staff authorised to spend on behalf of the Council to standardise the levels of authority for officers and reduce these where practical to do so.	<ul style="list-style-type: none"> Implement standard authorisation levels across all tiers of management Review current authorisation activity Complete annual review of delegated authority levels 	3	Finance & Procurement Manager	31 st January 2017
5	Review of contract register for completeness.	Procurement Team will review all purchase orders to ensure all contracts recorded on the Contract Register.	<ul style="list-style-type: none"> A monthly process is in place to keep this under review and identify historic issues that need to be resolved. Compliance issues will be routinely escalated to senior managers by the Finance & Procurement Manager 	2	Finance & Procurement Manager	31 st January 2017
6	Improve retention of supporting	Procurement team looking at the Council's document management	<ul style="list-style-type: none"> Email will be sent to all officers with delegated 	2	Finance & Procurement	31 st January 2017

Action Number	Item	Agreed Action	Stages/Progress	Priority	Responsible Officer	Timescale
	documentation.	system to identify a process for ensuring procurement documentation retained centrally.	authority reminding them of the need to retain procurement route documentation and ensure an entry made in the Contract Register <ul style="list-style-type: none"> A template document will be provided for officers to record key information 		Manager	
7	Improve retention of contract documents.	Procurement team will create central repository for holding all contract documents.	<ul style="list-style-type: none"> Determine appropriate process for use of the Council's Document Management System Communicate process to all officers with delegated authority 	2	Finance & Procurement Manager	31 st January 2017
8	Reporting of identified breaches of Contract Procedure Rules.	Breaches and waivers are reported to the newly created Governance, Risk & Assurance Group (GRAG) on a quarterly basis. These meetings are minuted and actions will be agreed and monitored.	A forward plan of reports is in place for GRAG. Q1 breaches and waivers were reported to the September meeting.	3	Finance & Procurement Manager	Complete

Priorities for Actions

Priority 1

A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.

Priority 2

A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be

Priority 3

addressed by management.

The system objectives are not exposed to significant risk, but the issue merits attention by management.



Audit and Governance Committee22nd February 2017

Report of the Deputy Chief Executive/Director of Customer & Corporate Services

Audit & Governance Committee Forward Plan to December 2017**Summary**

1. This paper presents the future plan of reports expected to be presented to the Committee during the forthcoming year to December 2017.

Background

2. There are to be six fixed meetings of the Committee in a municipal year. To assist members in their work, attached as an Annex is the indicative rolling Forward Plan for meetings to December 2017. This may be subject to change depending on key internal control and governance developments at the time. A rolling Forward Plan of the Committee will be reported at every meeting reflecting any known changes.
3. No amendments have been made to the forward plan since the last version was presented to the Committee on 8th February. The Chair of the Committee will continue to monitor the size of the agendas of future meetings and where deemed necessary will split large agendas and hold additional meetings.

Consultation

4. The Forward Plan is subject to discussion by members at each meeting, has been discussed with the Chair of the Committee and key corporate officers.

Options

5. Not relevant for the purpose of the report.

Analysis

6. Not relevant for the purpose of the report.

Council Plan

7. This report contributes to the overall effectiveness of the council's governance and assurance arrangements.

Implications

8.
 - (a) **Financial** - There are no implications
 - (b) **Human Resources (HR)** - There are no implications
 - (c) **Equalities** - There are no implications
 - (d) **Legal** - There are no implications
 - (e) **Crime and Disorder** - There are no implications
 - (f) **Information Technology (IT)** - There are no implications
 - (g) **Property** - There are no implications

Risk Management

9. By not complying with the requirements of this report, the council will fail to have in place adequate scrutiny of its internal control environment and governance arrangements, and it will also fail to properly comply with legislative and best practice requirements.

Recommendations

10.
 - (a) The Committee's Forward Plan for the period up to September 2017 be noted.

Reason

To ensure the Committee receives regular reports in accordance with the functions of an effective audit committee.

(b) Members identify any further items they wish to add to the Forward Plan.

Reason

To ensure the Committee can seek assurances on any aspect of the council's internal control environment in accordance with its roles and responsibilities.

Contact Details

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**Report
Approved**



Date 14/02/2017

Specialist Implications Officers

Head of Civic, Democratic & Legal Services

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annex

Audit & Governance Committee Forward Plan to December 2017

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Audit & Governance Committee Draft Forward Plan to December 2017

Training/briefing events will be held at appropriate points in the year to support members in their role on the Committee.

- **Committee 5th April 2017**

Approval of Internal Audit Plan (Statutory)

Internal Audit & Fraud Plan Progress Report

Internal Audit Follow up of Audit Recommendations Report

Mazars Audit Progress Report

Mazars Audit Strategy Report (Statutory)

Schools Information Governance update

Key Corporate Risk Monitor (including project risks)

Changes to the Constitution (if any)

- **Committee June 2017**

Draft Annual Governance Statement

Annual Report of the Audit & Governance Committee (Statutory)

Mazars Audit progress report

Annual Report of the Head of Internal Audit (Statutory)

Key corporate Risk Monitor (including project risks)

Changes to the Constitution (if any)

- **Committee July 2017**

Draft Statement of Accounts (Statutory)

Mazars Audit Progress Report

Information Governance Update Report

Health & Safety update report

Overview of Constitution

- **Committee September 2017**

Mazars Audit Completion Report (Statutory)

Final Statement of Accounts (Statutory)

Follow up of Internal & External Audit Recommendations

Internal Audit & Fraud plan progress report

Key Corporate Risks Monitor (including project risks)

Changes to the Constitution (if any)

- **Committee December 2017**

Treasury Management mid year review report 2016/17 and review of prudential indicators

Mazars Annual Audit Report (Statutory)

Mazars Audit Progress Report

Internal Audit & Fraud Progress Report

Information Governance & Freedom of Information Report (including information security)

Changes to the Constitution (if any)