

Audit and Governance Committee

15 March 2023

Report of the Director of Governance

Corporate Governance Report

1. Summary

1.1 This report provides Members with updates in respect of:

- Corporate Governance performance indicators update
- Information Commissioners Office (ICO) published decision notices from the previous report in November 2022 to date of preparing this report on 27th February 2023
- Ombudsmen update including Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS) cases from the previous report in November 2022 to date of preparing this report on 27th February 2023

2. Corporate Governance Performance Indicators Update

2.1 The performance indicators report for the reporting year April 2022 to March 2023 are attached at Annex 1.

2.2 The wider set of indicators and datasets are included on the regular external publication of information through York Open Data including those indicators linked to the Council Plan are now published on York Open Data. These are

- % Of Grade 1 4Cs Complaints responded to 'In Time' – which is available at <https://data.yorkopendata.org/dataset/kpi-ig22a>
- FOI & EIR % Requests responded to In time - (YTD) – which is available at <https://data.yorkopendata.org/dataset/kpi-foi02-01>

2.3 We continue to work with internal audit to provide improved quality assurance and monitoring of FOI, EIR and complaint responses which will assist the Corporate Governance Team (CGT) to identify in a

timelier way, specific support, and guidance to managers across the council. We will provide an update on this work in the full year report for Corporate Governance which will come to the relevant future Committee.

2.4 Complaints about council services are dealt with under the council's corporate procedure for Complaints, Concerns, Comments and Compliments (the 4Cs). This procedure was designed using the guidance and good practice specified in the statutory procedures and by the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS).

2.5 Further to the indicators in Annex 1, the below table shows the quarterly figures for corporate complaints covering April to December for 2022/2023 alongside the total figures for 2021/2022. Though there has been a decrease in the number of both grade 1 and grade 2 corporate complaints received compared to the previous quarters, we continue to maintain an improved % of both grades of corporate complaints, being responded to in time compared to 2021/2022. The CGT continues to work across the council to maintain this improvement.

		2022/2023		
	2021/2022	Q1	Q2	Q3
Number of 4Cs Complaints received	1,368	557	655	364
Number of 4Cs Complaints assessed at Grade 1	525	181	160	150
Number of 4Cs Complaints assessed at Grade 2	843	376	495	214
% Of 4Cs Complaints responded to 'In Time'	84.15%	94.59%	95.07%	93.97%
% Of 4Cs Complaints responded to 'Out of Time'	15.85%	5.41%	4.93%	6.03%

2.6 Complaints about adult and children's social care services are dealt with under two separate pieces of legislation:

- The Children Act 1989 Representations Procedure (England) Regulations 2006
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

2.7 Further to the indicators in Annex 1, the below table shows the quarterly figures for adults and children's social care complaints covering April to December for 2022/2023 alongside the total figures for 2021/2022. The

indicators in Annex 1 provide year to date / YTD (cumulative) and quarterly figures for adults and children's social care complaints. There has been improvement in the number of children's social care complaints responded to in time and a fall in the number of adults social care complaints responded to in time. This fall is a concern, and the CGT are working closely with managers to provide additional targeted support and guidance where we have identified areas for improvement.

		2022/2023		
	2021/2022	Q1	Q2	Q3
Adults social care complaints – total received	43	10	10	12
Adult social care complaints - % responded to 'In Time'	63.16%	80.00%	88.89%	50.00%
Children's social care complaints – total received	45	13	9	14
Children's social care complaints - % responded to 'In Time'	41.18%	54.55%	57.14%	90.00%

2.8 It may be helpful to note that there can be a decrease in number of complaints received in the lead up to and during the festive period.

2.9 Further to the indicators in Annex 1, the below table shows the quarterly figures for FOIs (Freedom of Information Act requests), EIRs (Environmental Information Regulation requests) and SAR (subject access to records request) covering April to December for 2022/2023 alongside the total figures for the previous three years.

	2019/2020	2020/2021	2021/2022	Q1	Q2	Q3
FOI - Total Received	1,422	1,215	1,056	180	159	169
FOI - % responded to In time	82.00%	80.25%	78.73%	84.75%	82.88%	88.19%
EIR – Total Received	487	647	625	161	148	112
EIR - % responded to In time	88.30%	85.78%	84.85%	83.13%	93.01%	93.07%
SAR - Total Received	204	160	117	41	29	38
SAR) - % responded to In time	76.96%	75.00%	66.96%	63.16%	69.23%	89.29%

2.10 There has been improvements made for FOI EIR and SAR being responded to in time throughout the reporting quarters this year and compared to the previous reporting years. we have improved the % of both FOIs and EIRs responded to in time.

3. ICO published decision notices

3.1 If someone is unhappy with the response they receive in relation to an FOI, EIR or SAR or if they want to raise a complaint under data protection legislation in relation to the rights of individuals, there is an opportunity to seek an internal review and then to complain to the ICO. The ICO publishes their decision notices and full reports on their website.

3.2 From date of the previous report to Committee up to the date of preparing this report on 27th February 2023, there were four published decision notices. The summary of these is at Annex 2 and the full reports from the ICO on these cases, can be found at

16 Jan 2023 – Complaint not upheld - <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4023584/ic-149818-q5r4.pdf>

10 Jan 2023 – Complaint not upheld - <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4023735/ic-172037-z4w2.pdf>

20 Dec 2022 – Complaint not upheld - <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4023458/ic-198660-t0t5.pdf>

12 Dec 2022 – Complaint upheld - <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4023370/ic-197345-l8w9.pdf>

3.3 Three of the four cases were not upheld as we had correctly applied the regulation under EIR to withhold the information or provided adequate advice and assistance to the requester.

3.4 One decision notice was upheld as we had not complied with section 10(1) of FOIA in providing a valid response to the request within the statutory time frame of 20 working days. We have now provided a substantive response.

4. Ombudsmen update

4.1 There were 19 Ombudsmen decision from the last report to Committee which are

- 1 Housing Ombudsman Services decision (HOS)
- 1 Parliamentary and Health Services Ombudsman (PHSO)
- 17 Local Government and Social Care Ombudsman (LGSCO)

4.2 Of the 19 cases determined by the Ombudsmen, the decisions were:

- 2 were not upheld/no maladministration
- 4 were closed after initial enquiries as out of the jurisdiction of the Ombudsman
- 7 were closed after initial enquiries with no further action
- 1 was closed after initial enquiries as the council had already taken satisfactory action to address the matter, and the injustice was not significant enough to justify the LGSCO's continued involvement in the case
- 5 cases were upheld with fault and injustice with recommendations and/or remedies. Details of the recommendations and /or remedies are shown at Annex 3.

4.3 The Corporate Governance Team undertakes ongoing work with the Corporate Management Team, Directorate Management Teams as well as with individual service areas to ensure that we share learning opportunities across the council and to identify areas for improvement from Ombudsmen cases.

5. Consultation

Not relevant for the purpose of this report.

6. Options

Not relevant for the purpose of this report.

7. Analysis

Not relevant for the purpose of this report.

8. Council Plan

8.1 The council's corporate governance service offers assurance to its customers, employees, contractors, partners, and other stakeholders that all information, including confidential and personal information, is dealt with in accordance with legislation and regulations and its confidentiality, integrity and availability is appropriately protected.

9. Legal Implications

9.1 The Council has a duty to comply with the various aspects of complaints, data protection, and privacy and information governance related legislation.

10. Risk Management

10.1 The council may face financial and reputational risks if the information it holds is not managed and protected effectively or if it does not respond to complaints effectively. For example, the ICO can currently impose civil monetary penalties for serious breaches and / or take enforcement actions. Ombudsmen can impose financial remedies and/or individuals may be at risk of committing criminal offences. The failure to identify and manage information risks or respond to complaints effectively, may diminish the council's overall effectiveness and damage its reputation.

11. Recommendations

11.1 Members are asked:

11.1.1 To note the details contained in this report.

11.1.2 Reason: To provide any comments or feedback from this report.

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Bryn Roberts Director of Governance

Report
Approved

Date 3rd March 2023

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Annexes

Annex 1 – Corporate Governance performance indicators summary
Annex 2 – Information Commissioner's Office (ICO) published decision notices
Annex 3 – Ombudsmen decisions

Background Information

Not applicable