

## **Audit and Governance Committee**

**30 November 2022**

## **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
- Ombudsmen update including Local Government and Social Care Ombudsman (LGSCO) cases from the previous report in June 2022 to date of preparing this report on 1<sup>st</sup> November 2022 and Housing Ombudsman Service (HOS) complaint handling code self-assessment.
- Investigatory Powers Commissioners Office (IPCO) update

#### **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

- IG22a - % of Grade 1 4Cs Complaints responded to 'In Time' – which is available at <https://data.yorkopendata.org/dataset/kpi-ig22a>
- FOI02 - 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 and EIR 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 The indicators in Annex 1 provide year to date / YTD (cumulative) and quarterly figures however for ease, the corporate complaints figures for Q2 2022-23 (July to September) are provided below. Though there has been an increase in the number of both grade 1 and grade 2 corporate complaints received compared to the same reporting period in 2021/22, we continue to improve the % of both grades of corporate complaints, responded to in time. The CGT continues to work across the council to maintain this improvement.

	<b>Q2 2021/22</b>	<b>Q2 2022/23</b>
Grade 1 corporate complaint – total received	104	160
Grade 1 corporate complaint – % responded to in time	80.41%	82.61%
Grade 2 corporate complaint – total received	275	495
Grade 2 corporate complaint – % responded to in time	87.94%	98.89%

2.4. 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

2.5 The indicators in Annex 1 provide year to date / YTD (cumulative) and quarterly figures and the figures for adult’s social care and children’s social care for Q2 2022-23 (July to September) are provided below. There has been improvement in the number of adults social care complaints responded to in time and a fall in the number of children’s 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.

	<b>Q2 2021/22</b>	<b>Q2 2022/23</b>
Adults social care complaints – total received	8	10
Adults social care complaints - % responded to in time	71.45%	88.89%
Children’s social care complaints – total received	15	9
Children’s social care complaints - % responded to in time	66.67%	57.14%

2.6 It is important to note although there has been an increase in the number of corporate and adults social care complaints received, this is not always a negative, because it can also reflect that the procedures, we have in place are accessible, that customers are supported to make complaints which in turn provides invaluable feedback and useful information for senior managers about the way that services are delivered, so that improvements can be made. The CGT continues to work with teams across the council to ensure learning from complaints is leading to improvements in services and that there is evidence of these actions being completed.

2.5 The indicators in Annex 1 provide year to date / YTD (cumulative) and quarterly figures and the figures for Q2 2022-23 (July to September) are provided below. Though there has been a decrease in the number of FOIs (Freedom of Information Act requests) and EIRs (Environmental Information Regulation requests) received compared to the same reporting period in 2021/22, we have improved the % of both FOIs and EIRs responded to in time. There has been an increase in the number of SAR (subject access to records request) received compared to the same reporting period in 2021/22, and we continue to improve the % of SARs responded to in time.

	<b>Q2 2021/22</b>	<b>Q2 2022/23</b>
FOI – total received	263	159
FOI - % responded to in time	76.74%	82.88%
EIR – total received	156	148
EIR - % responded to in time	80.13%	93.01%
SAR – total received	24	29
SAR - % responded to in time	65.22%	69.23%

### **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 11<sup>th</sup> November 2022, there were two published decision notices. The summary of this is at Annex 2 and the full reports from the ICO on these cases, can be found at

[| Search | ICO](#)

[ic-168988-k5m6.pdf \(ico.org.uk\)](#)

[ic-134814-v1n0.pdf \(ico.org.uk\)](#)

- 3.3 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 had to provide a substantive response within 35 calendar days of the decision notice which has been completed in the timescale.
- 3.4 One decision notice was not upheld because we had correctly applied the regulation 13(1) of the EIR (personal information) to withhold the information requested.

### **4. Ombudsmen update**

- 4.1 Local Government and Social Care Ombudsman (LGSCO) decisions from the last report to Committee in are shown in Annex 3. There were no Housing Ombudsman Services decisions during this time.
- 4.2 Of the 23 cases determined by the LGSCO:
- 15 were closed after the LGSCO's initial enquiries as either out of their jurisdiction or no further action needed.
  - 1 was not upheld so no further action needed.
  - 7 were upheld and had 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.
- 4.4 The Housing Ombudsman Service (HOS) introduced their Complaint Handling Code in July 2020 that set out good practice that allows landlords, for example the council, to respond to complaints effectively and fairly. Following a review one year after it was introduced, which demonstrated overwhelming support for the Code, the HOS updated it to strengthen provisions to support a positive complaint handling culture. You can find out more about the HOS Complaint Handling Code at

[Complaint Handling Code - Housing Ombudsman \(housing-ombudsman.org.uk\)](https://housing-ombudsman.org.uk)

- 4.5 We have completed the annual assessment against the Code to ensure our complaint handling remains in line with its requirements and we have published the results on the council website and have provided a copy of this as Annex 4

[Housing Ombudsman Service - Complaint handling Code - Self Assessment form \(york.gov.uk\)](https://york.gov.uk)

## **5. Investigatory Powers Commissioners Office inspection update (IPCO)**

- 5.1 The IPCO carried out their programmed inspection of the council's use of covert surveillance, acquisition of communications data or use of a Covert Human Intelligence Source (CHIS) and our adherence to the relevant laws such as Regulation of Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2019 (IPA) and all relevant codes of practice on 27<sup>th</sup> August 2021 by way of a virtual meeting and submission of documents and evidence.
- 5.2 Following this inspection, we reviewed staffs' training needs and recently provided professional training through BLS & Stay Compliant Training (an experienced team of investigators and surveillance experts), for staff, managers and Chief Officers who are engaged in investigatory or enforcement areas, including where RIPA considerations are not so immediately apparent, to maintain their levels of knowledge and awareness of when these powers may be available to them and which guidelines to follow. There was also a further

immersive, practical/hands- on, 'on the ground' covert techniques training course, for staff to practice skills they are expected to perform on real-life operations to increase their understanding of the practical application of the legislation in real-life situations. We also asked all those who attended for their feedback from the training such as relevance, usefulness, subject depth etc and the majority rated these as excellent or good. We also asked for their comments and suggestions for future training needs, and we will review this information to inform future training needs and provision.

## **6. Consultation**

Not relevant for the purpose of this report.

## **7. Options**

Not relevant for the purpose of this report.

## **8. Analysis**

Not relevant for the purpose of this report.

## **9. Council Plan**

- 9.1 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.

## **10. Legal Implications**

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

## **11. Risk Management**

- 11.1 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.

## 12. Recommendations

12.1 Members are asked:

12.1.1 To note the details contained in this report.

### Contact Details

Author: Lorraine Lunt  
Information Governance &  
Feedback Team Manager  
Telephone: 01904 554145

Chief Officer Responsible  
for the report: Bryn Roberts  
Director of Governance

Report Approved  Date 15 November 2022

**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  
Annex 4 – Housing Ombudsmen Service – Self Assessment

### Background Information

Not applicable