
Meeting	Audit & Governance Committee
Date	26 July 2018
Present	Councillors Cannon (Chair), Steward (Vice-Chair), Lisle, Cuthbertson, Kramm, Williams and Mason
Apologies	Mr Mann and Mr Mendus (Independent Members)

[As amended at the meeting of 19 September 2018]

15. 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. None were declared.

16. Public Participation

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

Councillor Rawlings spoke in relation to the meeting held on 20 June, where he made a request to remain in the room after the exclusion of press and public. He stated that he had a legal right to remain in the room if he could demonstrate a 'need to know' in relation to his role, which he felt he could as the Shadow Member for Economic Development & Community Engagement, which included responsibility for governance. He asked that the minutes be amended to reflect that when the Chief Executive refused this request, she also stated that his presence would alter the political balance of the meeting and that the Chair had stated he would have permitted him to remain in the room. He also queried the right of the Chief Executive to refuse this request. Finally, he stated that allowing the private session to take place with Members of only two political groups present did not demonstrate good governance.

Michael Hammill, a resident, spoke on legal action he had previously been advised was being taken against him in relation to defamation. He stated that he had recently received a letter

from the Head of HR stating that no further action was being taken, but that he had not yet received an apology. Finally he commented on the public lack of trust in CYC due to a perceived lack of openness and transparency, which he said had also been highlighted in the Local Government and Social Care Ombudsman's Annual Letter.

John Young, a resident, spoke on his concerns surrounding the Citizen's Audit. He stated that he had looked at CYC Open Data sets and in doing so had focused on accuracy, structure and data privacy, including appropriate redactions. He highlighted errors in cost centre codes and rationalisation and a high level of reversals. He also expressed his concerns over data breaches.

Matthew Laverack, a resident, told Members that he had not received a reply from CYC in response to a complaint regarding comments made to him at the Audit & Governance Meeting on 30 April 2018. He stated that it was his belief that minutes had been drafted in order to dilute public speakers' criticism of senior staff. He also felt that there was no longer any public confidence in openness and transparency as reports into senior staff conduct had not been made public. Finally he expressed his determination to continue participating in public meetings, despite new rules which may be put in place to make this more difficult.

Gwen Swinburn, a resident, firstly spoke on her concerns that as the Chief Executive was a key participant in the A&G Meeting of 20 April, and the subject of complaints within that report, it was a conflict of interest for her to act as chief advisor to the Committee. She then stated that, in ejecting Councillor Rawlings from the meeting of 20 June, the Chief Executive had exceeded her powers. Finally she expressed her view that it was not acceptable that responsibility for a rewrite of the constitution had been removed from the Audit & Governance committee and given to the Customer & Corporate Services Scrutiny Management Committee and that this decision should not be allowed to stand.

Brian Watson, Honorary Alderman and resident, spoke on the minutes of the Audit & Governance Committee meeting held on 20 June 2018. He pointed out the importance of the LGA procured report being made public. He also discussed the recommendations made by the committee at that meeting. He

stated that briefings for Chairs should be mandatory, training for Chairs and Vice Chairs should be compulsory and expressed his disappointment that none of the recommendations made were positive.

17. Minutes

Members considered minutes of the meetings held on 30 April, 20 June and 27 June.

In respect of the minutes of the meeting held on 30 April Members requested that the following amendments be made:

- Minute item 66.

Para1 - to add the sentence:

'The Chair advised all public speakers that they should avoid saying anything defamatory or discriminatory, anything that constitute a personal attack on an officer or anything that discloses confidential or exempt information including personal information.'

Para 2 - to read: *'...of the Audit & Governance Committee on 22 February 2017 and asked for a full public disclosure of the report. He also raised further concerns in relation to historic procurement issues, which in his opinion have not been properly clarified and resolved.'*

Para 3 - to read: *'...not dealt with properly and that residents' emails and social media communication have been blocked on social media. From his point of view residents with legitimate concerns are vilified and claims of defamation or discrimination are wrongly brought up. He also stressed that historic issues can and should be revisited by councillors until completely resolved.'*

Para 4 - to read: *'...transparency issues and his feeling that it has been attempted to scare him off with legal threats of defamation and discrimination. He stated that residents should have a right to question the Council and urged the Committee to deal with these issues. He also raised concerns of the council funding legal advice on officer's personal reputation claims.'*

Para 5 - to add the sentence:

'He also raised a potential conflict between sessions in private and the rights of all members of the council to stay in meetings after press and public are excluded.'

- Minute Item 67 (to become Minute Item 68).

Para 2 – To read: *'The committee also noted It was also suggested by Members that this report should be referred to ask the Walker Report after the consultant who wrote it. renamed ahead of the next meeting as They did not consider this an LGA report as Ms Linda Walker had only been asked by the LGA after being asked by the Council's Chief Executive to carry out the investigation'*.

Resolved – To add the sentence:

'A special meeting of the Audit and Governance Committee to be convened as soon as possible, where the report can be considered by the committee in private session'.

In respect of the minutes of the meeting held on 20 June Members requested that the following amendments be made:

- *Minute Item 3.*

Para 1 – To add the sentence:

'The Chair stated that, although Mr Laverack had withdrawn his registration to speak, he wished for it to be recorded that his complaint regarding how he had been dealt with by the Council had not been answered.'

- Minute Item 4.

Para 2 – Remove the phrase *'reminded Members'* and replace with *'stated'*.

Para 3 – Remove *'he felt'*

- Minute Item 5.

Para 5, Bullet 4 - Remove the word *'expected'* and replace with *'required'*.

Para 6 – To read: *Following advice from the Deputy Monitoring Officer* ~~At this point in the meeting~~ it was agreed to exclude the press and public and move into private session *at this point, to allow all Members to consider the confidential legal advice.*

Para 7 – To read: ‘*...After a short recess, where she took advice from the Deputy Monitoring Officer, the Chief Executive advised Councillor Rawlings he would have that, following the advice she had been given, she had made the decision to exclude him from to leave the meeting as he was not a Member of the Audit and Governance Committee, and had not demonstrated a need to know the exempt information in order to carry out his duties as a Councillor. He was therefore not entitled to access the exempt information. She also stated that letting Councillor Rawlings stay would change the political balance of the meeting. The Chair commented that he would have allowed Councillor Rawlings to remain in the meeting.*

Para 8 – To add the sentence:
‘Finally they stated that they would not have long enough to read the report, given that usual practice was to provide papers 5 days working days before the meeting’.

Para 11 – To add the sentence:
‘The Chief Executive explained that only the recommendations contained in the public report could be dealt with by this committee, as the recommendations in the exempt annex had all been dealt with via other processes and were provided as background information only’.

Signature Block to read:

*Councillor Steward, Vice Chair in the Chair
Councillor Williams, Committee Member in the Chair
during part of the private session*

[The meeting started at 5.30pm and ended at 8.50pm]

Members also asked that clarification was sought from the Chief Executive and Deputy Monitoring Officer on the following points:

1. When was the last time, if ever, that Councillors at CYC had been asked to sign a confidentiality undertaking?
2. How many of the three sources of legal advice the Chief Executive received were external?
3. Councillors Lisle and Steward stated that, during the private session on 20 June, the Chief Executive agreed to publish the recommendations in the LGA report in their entirety. The Committee agreed the Chief Executive should be asked why this had not happened.

Resolved: That;

1. The minutes of the meeting held on 30 April be approved and then signed by the Chair as a correct record, subject to the above amendments;
2. The minutes of the meeting held on 20 June be amended as requested and brought back to the next meeting for approval; and
3. The minutes of the meeting held on 27 June be approved and then signed by the Chair as a correct record.
4. The Democracy Officer seek clarification from the Chief Executive and DMO on the above points.

18. Monitor 1 2018/19 - Key Corporate Risks

Members considered a report that presented an update on the key corporate risks (KCRs) for City of York Council, including a detailed analysis of KCR3 (Effective and Strong Partnerships).

The Finance & Procurement Manager and Head of Corporate Strategy and City Partnerships attended the meeting to present the report and answer Member questions. They stated that there were no substantial changes to report.

In relation to KCR3 (Effective and Strong Partnerships) Officers stated that a risk would be to not effectively manage partnerships across the City. A focus within the Council at this

time was the quality and nature of relationships with other organisations. It was important to retain flexibility and to ensure the correct level of dialogue and to understand the challenges facing partner organisations.

In response to Member questions they stated:

- In situations, such as the York Central Partnership, where the Council had more than one role, conflict of interest was always a risk, however governance arrangements were in place and conflicts would therefore be identified. There would be clarity of roles as part of any formal board being set up. It was also highlighted that the function of the 'planning authority' was totally separate and planning decisions were always made in isolation;
- The report contained a random selection of partnerships;
- The Creating Resilient Communities Working Group (CRCWG) was an internal group which met every two months. It was made up of a cross section of Officers from across the Council who were involved in the design and delivery of services which interact with communities. The group was an opportunity for Officers to work in tandem for the benefit of residents;
- Conversations with partners happened regularly, but not always in a formal way;
- The new Safeguarding Partnership arrangement which had replaced the Safeguarding Children Board was not a formal arrangement, however each partner still had statutory safeguarding responsibilities which should mitigate risk; and
- In terms of the Health and Care Place Based Improvement Partnership it was still early days and so far there had only been two meetings. The published CQC action plan was there to drive improvements, but the important question for the board was how it would ensure actions were driven forward

Members also highlighted the following issues:

- That when Members sat on an outside board as a Director, it should be clear that they were not representing the Council, they were attending meetings as a member of that board;
- That some of the things listed in the report as risks – for example 'increased ethnic diversity' and 'popularity of

universities' – were actually positives for the City and should be worded differently, or referred to as 'risks and uncertainties';

- Concern about a lack of statutory responsibility in relation to the move away from Local Safeguarding Children Boards; and
- A lack of transparency surrounding the Health and Wellbeing Board, particularly in relation to private discussions on public issues.

Resolved: That Members;

- a) considered and commented on the key corporate risks included at Annex A;
- b) considered and commented on the information provided in relation to KCR3 Effective and Strong Partnerships included at Annex B;
- c) note that the 2018/19 monitor 2 report will include a detailed analysis of KCR4 Changing Demographics; and

Reason: To provide assurance that the authority is effectively understanding and managing its key risks.

19. Mazars Audit Completion Report

Members considered a report from Mazars, the Council's external auditors, which communicated their findings of the audit for the year ended 31 March 2018. The Committee were also presented with a follow up letter which reported items identified since the agenda for this meeting was published.

Mazars auditors who attended the meeting explained that they were working to a much earlier timetable this year, and that the Council had met its new deadline of May, which was a significant achievement. The audit was still on track to meet the deadline.

They also stated that:

- Various issues and objections had been raised by members of the public during the accounts inspection process and they were currently deciding if any of these

were valid objections which needed further consideration. They were clear however that there was nothing which would have a material impact on their opinion on the financial statement or value for money conclusion;

- In terms of significant risk there were no matters to report;
- In relation to internal control recommendations, an extensive check had been carried out and had found one instance of a Member failing to declare an interest as a Council appointed Director, and one instance of a Member failing to declare an unrelated Directorship; and
- For unadjusted mistakes there was one error of £20K, which came out to an extrapolated error of £889K;
- For adjusted mistakes there was one material adjustment relating to the Council's interest in Allerton Park where the auditors had challenged external accounting advice received by the Council, two further mistakes were misclassifications; and
- Mazars remained independent of the Council.

In response to Member questions they stated that:

- In relation to the £20K error under unadjusted mistakes, this was compared to the entire population of income/expenditure items over 4 months. This gave an estimate as to what the potential error would be and also satisfied them that there was no material error that would require more work. No adjustment was made to the accounts for this error, they would only intervene where there was a material error and the Council did not propose to make an adjustment.
- The fixed asset register error related to Cannon Lee Primary School playing field. The error had occurred when two lines on the asset register had not merged and was an isolated system input error.
- The difference between a third party income and a deferred income was a technical accounting adjustment and had no bearing on the net income the Council would receive.

The S151 Officer thanked auditors and CYC staff for their work in meeting such an early deadline. Members echoed his thanks.

Resolved: That Members note the matters set out in the Audit Completion Report presented by the external auditor.

Reason: To ensure the proper consideration of the opinion and conclusions of the external auditor in respect of the annual audit of accounts and review of the council's arrangements for ensuring value for money.

20. Final Statement of Accounts

Members considered the final set of accounts for 2017/18 to reflect changes made since the draft pre-audit accounts were presented to the Committee on 27 June 2018.

The Finance & Procurement Manager and Technical Accountant attended the meeting to present the accounts and to answer Member questions. They stated that the Annual Governance Statement had been amended following the Committee's inspection of the draft accounts and had now been signed by the Leader and the Chief Executive.

In response to questions they stated that:

- Wording relating to the Local Government Pension Scheme and to the remuneration of elections staff working in a 'personal capacity' was provided for Officers, however this could be looked at ahead of next years accounts;
- Elections staff such as the Returning Officer were paid directly by central government and so was not a direct cost to the Council;
- In response to points made by a public speaker, a number of valid queries has been raised during the public accounts inspection process. Errors indentified were classification errors on cost centres and analysis levels and had been corrected. They mainly related to open data and did not change anything in the statement of accounts; and
- Corrections and reversals were not always mistakes, they often related to recodes and allocations of charges made across several areas and 14% was not an accurate error rate; and
- Work was always been undertaken to improve processes.

Resolved: That Members;

- a) Note the matters set out in the Audit Completion Report presented by the external auditor in the previous agenda item and summarised in this report; and
- b) Approve the amended Annual Financial Report at Annex A for signature by the chair from a resolution of this Committee in accordance with the Accounts and Audit Regulations 2015.

Reason:

- a) To ensure the proper consideration of the opinion and conclusions of the external auditor in respect of the annual audit of accounts and review of the council's arrangements for ensuring value for money.
- b) To ensure compliance with the International Auditing Standards and relevant legislative requirements.

21. Information Governance and Complaints

This report provided Members with updates in respect of:

- Information governance performance
- General Data Protection Regulation (GDPR) and Data Protection Act 2018
- NHS Digital Information Governance toolkit – annual assessment
- NHS Digital audit Complaints

Members requested that this item to be deferred until the next meeting of the Audit & Governance Committee as the report author had been unable to attend the meeting.

Resolved: That this item be deferred until the meeting on 19 September 2018.

Reason: To enable the report author to update Members on performance within Information Governance and Complaints.

22. Forward Plan

Members considered the future plan of reports expected to be presented to the Committee during the forthcoming year to May 2019.

Members requested that the Information Governance and Complaints Report be added to the forward plan for September.

Resolved: That the forward plan for the period to May 2019 be agreed, subject to the above amendment.

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

Councillor Cannon, Chair

[The meeting started at 5.30 pm and finished at 7.30 pm].