

Meeting	Audit & Governance Committee
Date	6 March 2019
Present	Councillors Cannon (Chair), Steward (Vice-Chair), Lisle, Cuthbertson (Items 1-5), Williams, Mason, Mendus (Independent Member) and D Taylor (Substitute for Councillor Kramm)
Apologies	Councillors Kramm and Dave Mann

58. 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 Dave Taylor declared a prejudicial interest in item 4 (Non-disclosure agreements) and withdrew from the meeting.

59. Public Participation

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

Gwen Swinburn, a resident, spoke on her concerns on a number of items in the Committee's remit. Firstly, her disappointment that there had still been no review of the constitution and that there was still no plan for the updates to be made. Secondly, the public interest report which had not been implemented. She stated that she felt Key Decisions were being misclassified or made unlawfully by Officers or individual Executive Members and that Officer Decisions were being administered against both the law and the constitution. She also spoke on recommendations from the ICO Data Protection Audit not being implemented, including record retention protocols. Finally, she thanked the Committee for their hard work over the period of this administration and hoped that this would continue post-election.

60. Minutes

Resolved: That the minutes of the meeting held on 6 February 2019 be approved and then signed by the Chair as a correct record, with the following addition:

Minute Item 52:

After the following sentence

'During Discussion Members made the following comments:'

Add the following bullet point:

- That consideration be given to setting a timescale by which whistleblowing investigations should be concluded

Matters Arising:

Officers updated the Committee on the following issues arising from the minute of the previous meeting

- One Planet York App Data Breach – This case had recently been closed by the ICO and no further action would be taken. Further information would be circulated to Members via email over the next few days; and
- Whistleblowing Policy – The Joint Standards Committee Task Group had recently met and their comments would be fed back to Veritau.

61. Non- Disclosure Agreements

Members considered a report providing an explanation of the concept and use of “non disclosure agreements” by CYC in the context of employment law, as previously requested by the Committee.

The Head of HR and HR Manager attended the meeting to present the report and answer Member questions. They stated that CYC used settlement agreements, and that Non-disclosure agreements were a clause within these. They were a mutual

agreement between parties to terminate employment. They explained this report outlined current officer involvement in the process. There was no definitive answer as to the involvement of Members in the process across the ten authorities the Head of HR had looked at.

In response to Member questions they stated that:

- Independent legal advice would be given to an individual on the Settlement Agreement and a portion of this cost would be met by the Local Authority; this was a set fee plus VAT;
- Section 5 of the Constitution contained a summary of the access to information rules and need to know. The report was stating that, if Members were involved in the detail of NDAs it was important to demonstrate the 'need to know' in each case. This was not suggesting there was an issue with general oversight of the process;
- Their understanding of 'Member involvement' in NDAs was a small number of Members, such as the Staffing Matters and Urgency Committee, not all 47 Councillors;
- There was merit in Members having oversight of NDAs. This was already the case when looking at dismissal of Chief Officers. A format could be considered as to how this oversight would work, but the decision would still have to be made by the relevant Officer; and
- Members could choose to recommend a change to the Constitution, but not every HR procedure or process was contained within it and so implementation of the Committees recommendations did not need to wait for a constitution review.

During discussion Members made some of the following points:

- Settlement agreements should be considered somewhere, for example Staffing Matters and Urgency Committee, in order to discharge transparency and openness obligations and to give Members oversight;
- There was a need to distinguish between oversight and involvement in order to maintain the roles of Officers and Members; and
- Some Members expressed concern at the idea of Members being involved with individual decisions, rather than having oversight of the process. It was felt that not

every Executive Member would be happy with being consulted and would want to get very 'hands on'.

Resolved: That the following recommendations be made:

- A system of Member oversight of proposed settlement agreements and non-disclosure clauses be introduced to ensure that expenditure of Council Tax payers money is prudent and accountable;
- There should be a presumption against Non-disclosure agreements unless a business case is presented that is viable and is then approved by Members (in a format to be decided); and
- A formalised process be implemented so that there is consultation with Members on proposed settlement agreements and that the Constitution be amended to reflect this.

Reason: To ensure Member oversight of settlement agreements and non-disclosure clauses.

62. Monitor 4 2018/19 - Key Corporate Risks (Inc. Kcr 6 Health & Wellbeing)

Members received a report providing an update on the Key Corporate Risks for the Council. This included a detailed analysis of KCR6 (Health and Wellbeing). The Principal Accountant attended the meeting to present the report and answer Member questions. She stated that this was the last KCR Monitor for the financial year.

On KCR 6 (Health and Wellbeing) the Director of Public Health had been unable to attend the meeting but would respond to Member questions in writing.

In response to Member questions Officers stated that:

- Two actions due for completion at the end of the month on Health & Safety Issues should be on track and a written response on this would be provided;
- The Public Health Strategy was due for delivery in February and written confirmation of this would be provided to the Committee;

- Analysis of the implications of a no-deal Brexit was ongoing and an update would be provided in writing for the Committee;
- Detail on Community Stadium Project was still subject to confidential commercial discussions but there would be a need to reflect on delays moving forward; and
- KCRs were regularly reviewed with the Council Management Team (CMT).

Members stated that it was very disappointing that there was no representative from Public Health at the meeting and commented on the poor quality of KCR 6. They requested that this section of the report be brought back to the next meeting of this Committee with an appropriate Officer in attendance.

Resolved: That Members:

1. consider the key corporate risks included at Annex A;
2. request that KCR6 (Health and Wellbeing) be brought back to Committee in June 2019 and an appropriate officer be in attendance to answer Member questions; and
3. note that the 2019/20 Monitor 1 report would include a detailed analysis of KCR7 Capital Programme.

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

63. Mazars Audit Progress Report

Members considered a report from Mazars, the Council's external auditors, on progress in delivering their responsibilities as auditors.

The Engagement Lead (Partner) and Senior Manager, Mazars, attended the meeting to present the report. They stated that the certificate for the 2017/18 audit had been signed the day before. This was as the objection made had not been upheld and the audit was now complete.

They went on to state that in relation to 2018/19 work, and this update, there were currently no significant matters to report. They also stated that the audit was very much on track.

Some Members commented on the fact that the report contained very little information specific to York and that perhaps the report could be brought to Committee less frequently.

Resolved: That Members note the progress report.

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

64. Audit & Counter Fraud Monitoring Report

Members considered a report providing an update on progress made in delivering the internal audit work plan for 2018/19 and on current counter fraud activity.

The Head of Internal Audit attended the meeting to present the report. He highlighted that they were on track to complete the audit plan.

In response to Member questions he stated that:

- In relation to the Adult Education audit, this could be passed to the relevant scrutiny committee to consider if the Committee felt this was appropriate;
- CMT had been made aware of the issues on Information Security Checks and work was being undertaken to complete recommended actions;
- Completed audits with March completion dates would still be circulate by email when finalised, but they would take advice on the procedure during purdah;
- Fieldwork meant that all work was done and the report was being drafted, this was further on than 'in progress';
- In relation to Counter Fraud the savings discussed on page 87 of the agenda were actual monetary savings back to the Council.

Resolved:

1. That the report on Audit and Counter Fraud activity be noted; and
2. That the Adult Education audit report be passed to the relevant scrutiny committee for consideration.

Reason: To enable members to consider the implications of audit and fraud findings.

65. Internal Audit Follow Up Report

Members received the regular six monthly report to the committee setting out progress made by council departments in implementing actions agreed as part of internal audit work.

The Head of Internal Audit presented the report. He stated that where there were revised target dates, Veritau were content there were appropriate reasons for the delay. None of the revised target dates were more than 6 months beyond the original targets for implementation.

In response to Member questions he stated that delayed actions were not yet a cause for concern. If Veritau thought there were unacceptable reasons for delay, or that delays posed a significant risk to the Council, then it would be reported to the Committee.

Resolved: That the report be noted.

Reason: To enable Members to fulfil their role in providing independent assurance on the council's control environment.

66. Internal Audit & Counter Fraud Plans 2019/20

Members considered a report which sought approval for the planned programme of internal audit work to be undertaken in 2019/20. It included details of the planned programme of counter fraud work.

The Head of Internal Audit presented the report. He stated that consultation on the audit plan was now complete and the final plan was ready for the Committee's approval. He explained that the audit resource had been reduced by around 10% so it was more challenging to include everything they might have wished to cover. He also stated that the plan needed to be flexible and would they would always monitor for new and emerging risks.

Members thanked Veritau for the addition of the home working and insurance items on the plan.

Resolved: That Members approve the Internal Audit & Counter Fraud Plans 2019/20.

Reason: In accordance with the committee's responsibility for overseeing the work of internal audit and the counter fraud service.

67. Forward Plan

Members considered the future plan of reports expected to be presented to the Committee during the forthcoming year to February 2020.

Resolved: That the forward plan for the period to February 2020 be agreed, subject to the following amendment:

June 2019 – KCR 6 to come back to Committee as part of the next KCR Monitor

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 7.15 pm].