

Meeting	Audit and Governance Committee
Date	8 November 2023
Present	Councillors J Burton (Vice-Chair), Hollyer (Chair), Fisher, Melly, Rose, Whitcroft and Healey (substitute) Mr Leigh (Independent Member)
Apologies	Councillor Mason
Officers in Attendance	Lorraine Lunt, Information Governance and Feedback Manager/DPO Bryn Roberts, Director of Governance and Monitoring Officer Debbie Mitchell, Chief Finance Officer Helen Malam, Principal Accountant Max Thomas, Head of Internal Audit Connor Munro, Assistant Director, Audit Assurance
Officer in Attendance Remotely	Mark Outterside, Senior Manager, Mazars

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## **PART A - MATTER DEALT WITH UNDER DELEGATED POWERS**

### **23. 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.

### **24. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of Annexes 4 to 7 to Agenda Item 12 on the grounds that they contain information relating to the financial or business affairs of any particular person. This information was classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

## **25. Minutes and Action Log**

Resolved: That the minutes of the meeting held on 12 September 2023 be approved and then signed by the Chair as a correct record subject to deleting one of the duplicated Joe Leigh (Independent Member) from the present section.

In answer to questions raised, the Director of Governance confirmed that:

- two applicants had applied for the Audit and Governance Independent Member vacancy and interviews had been conducted. A suitable appointment had been agreed and a report was being prepared for ratification at Full Council.
- the Local Government Association (LGA) recommendations report, due to be considered at the next committee meeting, would be delayed to a future meeting due to officer capacity.

## **26. Public Participation**

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

Andrew Mendus made reference to Agenda Item 9, Update on No Purchase Order No Pay Process, Agenda Item 6, Constitutional Changes and Agenda Item 7, Publication of Internal Audit Reports. He indicated that the committee should support officers in strengthening the no purchase order no pay process action plan and he suggested a follow up report be provided to ensure the committee could monitor the effectiveness of the changes implemented. He shared his disappointment in the proposed changes to internal audit reporting and hoped members recognised their responsibilities in scrutinising and challenging the internal audit findings, and to identify a clear objective to fix problems with administrative procedures.

Brian Watson spoke on Agenda Item 3, Minutes. He made reference to the comments he had made at the last meeting regarding the role of and support given to the Civic Party. He requested further clarification to the points he had raised and in response, the Chair stated that a civic protocol review report was due to be considered by the Executive Member for Finance, Performance, Major Projects and Equalities at a

Decision Session, in consultation with the Executive Leader inc. Corporate Services, Policy, Strategy and Partnerships, on 29 January 2024.

## **27. Corporate Governance Performance Report (5:45 pm)**

The committee considered a report that provided:

- responses and updates to queries and questions from Audit and Governance Committee in July 2023
- Corporate Governance Team (CGT) performance indicators update
- Information Commissioners Office (ICO) enforcement notice;
- ombudsmen update including:
  - Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS) cases from the previous report in July 2023 and to date of preparing the report on 26 October 2023;
  - Update on HOS
- covert surveillance training

The Information Governance and Feedback Team Manager/Data Protection Officer provided an update, noting that:

- officers had now completed and sent valid responses to all 261 overdue Freedom of Information (FOI) requests, and the Improvement Plan (Annex 4 to the report) had been published online. The ICO had confirmed the council had complied with their enforcement notice and this positive result would shortly be published on their website. Once available, officers agreed to share the uniform resource locator (URL) with members.
- it was anticipated that further housing complaints would be escalated into the Housing Ombudsman Service due to no win no fee solicitors chasing customers, and the Housing Ombudsman strengthening their code of practice. The committee would be updated as and when cases and decisions arose.
- following the covert surveillance training provided to members on 8 November, officers welcomed any feedback on the content of the annual report.

The committee noted the significant progress made to eradicate the backlog of FOI requests and they thanked officers for achieving this result. Members did however share their

concerns regarding the delay in officers disclosing the backlog, and they requested a further explanation regarding the timeframes. The Information Governance and Feedback Team Manager reassured the committee that:

- the action log contained a proposal to ensure members were kept informed of responses that were out of statutory timeframe.
- the delay in disclosing the FOI backlog position would be discussed with the ICO Group Manager and reported back to members.

During discussion and in answer to questions raised, it was noted that:

- the Improvement Plan would be revised to ensure members could monitor the progress, and completed outcomes.
- training was delivered to staff via various routes, and a training and awareness log had been incorporated to enable the team to identify any gaps in provision. Training resources were also available on the ICO website and these were utilised by staff.
- the stretch target set by the ICO was 95% or above and further analysis could be included in future updates to clarify the council's position.
- the council was obliged, by the legislation, to explain the escalation route on every FOI and Environment Information Request (EIR) response.
- the Improvement Plan was regularly updated and published online, and updates would be reported at an Audit and Governance Committee meeting.
- officers were continuing to recognise the number of contracts in existence that may not contain the full robust clauses around FOI.
- officers worked with the Business Intelligence Team to manage corporate performance reports published on the council's open data platform, and following further discussion regarding consolidating the data to enable a more user friendly system, the Chair agreed to investigate this further.

Resolved: That the details contained in the report be noted.

Reason: So that members were updated with details of the corporate governance report.

**28. Report of the Monitoring Officer on suggested Constitutional changes (7:30 pm)**

Members considered a report that provided the first tranche of suggested constitutional changes to the committee for consideration and discussion.

The Monitoring Officer provided an overview and raised a point of clarification within Annex 2 of the report (Appendix 3, Full Council Procedure Rules) at point 3.1 l) in that the titles Honorary Alderwoman and Honorary Freewoman had regrettably been omitted and would be included.

During discussion of the item, members questions were answered and it was highlighted that previously a cross party working group had been established to consider any constitutional updates. Following a detailed discussion, the committee welcomed this approach and agreed that the changes made by the cross party working group would be reported to this committee for consideration prior to being considered at a meeting of Full Council. The committee also discussed Annexes 5 to 10 and acknowledged that these were minor amendments and having being put to the vote, it was unanimously:

Resolved:

- i) That the proposed Constitutional changes within Annexes 6, 8 and 10, of the report, (Appendix 11, Contract Procedural Rules, Article 11, Staffing Matters and Urgency Committee and Appendix 12, Officer Employment Procedure Rules) be endorsed for transmission to Full Council subject to:
  - the Monitoring Officer verifying the exact statutory wording that governed how a Political Group qualified for a Political Assistant (Annex 8, point 2.1).
  - the word 'majority' be changed to 'largest' within Annex 8, point 2.1.c.
  - Chief Operating Officer be changed to Head of Paid Service within paragraph 3.1 b. of Annex 8.
  - removing the gender pronouns in paragraph 11.3 of Annex 8.

- ii) That any further minor amendments be promptly received for submission to Full Council on 21 November 2023.
- iii) That a cross party working group be established to consider the Constitutional changes for onward endorsement by the Audit and Governance Committee on 28 February 2024 then Full Council on 21 March 2024.

Reason: To allow the committee to consider the proposed Constitutional changes, propose such amendments as the committee considers necessary, and endorse their onward transmission to Council for final approval.

## **29. Publication of Internal Audit Reports (6:44 pm)**

Members considered a report that provided a greater understanding of the reasons for exempting Internal Audit (“IA”) reports from publication.

The Director of Governance explained how practice varied across authorities and the committee discussed the rationale for exempting IA reports from publication. The Director noted that internal audit provided independent assurance that an organisation’s risk management, governance and internal control processes were operating effectively, and that it was not standard practice to publish internal audit reports in full.

The committee deliberated elected members rights to exempt reports and the Director confirmed that if he accepted the application submitted, any member, that could demonstrate a need to know for the purposes of their duty as a councillor and no other, could inspect any document that contained exempt information. Following discussion, the Director agreed to include the access to information procedure rules in the Constitution review.

Following further deliberations regarding the publication of exempt papers, Cllr Fisher proposed and Cllr Burton seconded that a summary report highlighting the key points that were allowable within the public domain, with an overall conclusion, should be published, and having being put to the vote, the motion was carried 5 votes to 2.

Resolved:

- i) That the content of the report be noted.
- ii) That it be agreed that, rather than publishing IA reports, the council's IA provider would include details in a public summary report that highlighted the key points and an overall conclusion of assurance levels for completed reports.
- iii) That the access to information procedure rules be included in the Constitution review, particularly relating to councillors rights to information.

Reasons: To assist the Monitoring Officer in his consideration of the review of the Constitution, and to provide guidance to the Assistant Director of Policy and Strategy in relation to the cultural change programme recommended by the Local Government Association (LGA).

An adjournment took place between 7:19 pm and 7:30 pm

**30. Treasury Management Mid-Year Review and Prudential Indicators 2022/23 (6:15 pm)**

The committee considered a report that provided a mid-year update on treasury management activities for the first half of the year and the latest update of the prudential indicators.

The Chief Finance Officer provided a brief overview and in answer to questions raised regarding the investment portfolio, members noted that the:

- level of cash balances available for investment were monitored on a daily basis.
- financial strategy included provisions for additional borrowing, with interest rates being regularly observed.
- investment portfolio on the council's current accounts could be further explored.
- Public Works Loan Board (PWLB) certainty borrowing rates, as noted in table 6 at point 42 of Annex 1 to the report, related to government bonds by duration of loan, and further details on the interest rates would be issued to members.

Members thanked the Chief Finance Officer for her update.

Resolved: That the Treasury Management Mid-Year Review and Prudential Indicators, attached at Annex 1 to the report, be noted.

Reason: That those responsible for scrutiny and governance arrangements were updated on a regular basis to ensure that those implementing policies and executing transactions had properly fulfilled their responsibilities with regard to delegation and reporting.

**31. Update on No Purchase Order No Pay Process (6:24 pm)**

Members considered a report that provided an update about the review of No Purchase Order No Pay processes.

The Principal Accountant stated that recent internal audits had found control issues from retrospect purchase orders being raised, and the committee discussed the four audit recommendations, to review:

- the No Purchase Order No Pay policy and associated policies and processes;
- training and guidance for staff;
- the role of Business Support within purchase ordering;
- the list of exemptions.

The committee noted the progress made to date and during discussion, officers agreed to provide more analysis in future reports, particularly relating to the:

- exemption list
- value of invoices
- purchase order invoice dates/approvals
- retrospective purchase orders
- action plan

Officers also agreed to consider if the training available to staff should be made mandatory.

Members were assured by officers that they had recognised the problem, were determined to resolve it, and would have processes in place to encourage compliance.

Resolved: That the action plan be noted and commented on ahead of a further update in 2024.



Reason: To gain assurance that the council was taking proper action to respond to the agreed audit actions and improvements to purchasing processes were being made where necessary.

**32. Monitor 2 2023/24 - Key Corporate Risks (6:41 pm)**

Members considered a report that presented an update on the key corporate risks (KCRs) for City of York Council (CYC), which were included at Annex A to the report.

The Principal Accountant provided a brief overview noting that the 12 KCRs had been identified by officers as being the main risks or threats to achieve the council's objectives.

The Principal Accountant was thanked for her report and she noted that the committee would welcome an update on the progress of the Local Plan (KCR 8) in her next report.

Resolved:

- i) That the key corporate risks, included at Annex A, and summarised at Annex B of the report, be considered.
- ii) That the progress of the Local Plan (KCR 8) be included in the next update.

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

**33. Audit And Governance Work Plan 2023/24 (8:08 pm)**

Members considered the work plan for the 2023/24 municipal year.

Resolved:

- i) That the work plan be noted.
- ii) That an update be received, from the working group that will be established to consider the Constitution changes, on 28 February 2024.
- iii) That a No Purchase Order No Pay Process update be received at a suitable meeting in 2024.

Reason: To ensure the committee maintained a programme of work for 2023/24.

### **34. Audit and Counter Fraud Progress Report (8:10 pm)**

The committee considered a report that provided an update on the delivery of the internal audit work programme for 2023/24 and on counter fraud activity undertaken so far in the year. The report also informed members of the outcome of Veritau's recent external quality assessment.

The Head of Internal Audit provided a brief overview noting that four internal audit reports had been finalised, with a further five at draft report stage. It was noted that:

- Annex 1, to the report, provided an update on progress made against the 2023/24 internal audit work programme and included revised internal audit properties for the year.
- Annex 2, to the report, provided the outcome of the internal audit function's recent external quality assessment undertaken by the Chartered Institute of Internal Auditors.
- Annex 3, to the report, provided the counter progress report.

The press and public were then excluded from the meeting during consideration of Annexes 4 to 7 of the report, where the Head of Internal Audit and Assistant Director of Audit Assurance answered members questions.

Resolved:

- i) That the progress made in delivering the 2023/24 internal audit work programme, and current counter fraud activity, be noted.

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

- ii) That the 'generally conforms' outcome of Veritau's recent external quality assessment, be noted.

Reason: To enable members to fulfil their responsibility.

## **PART B - MATTERS REFERRED TO COUNCIL**

### **35. Report of the Monitoring Officer on suggested Constitutional changes (7:30 Pm)**

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The Monitoring Officer provided an overview and raised a point of clarification within Annex 2 of the report (Appendix 3, Full Council Procedure Rules) at point 3.1 l) in that the titles Honorary Alderwoman and Honorary Freewoman had regrettably been omitted and would be included.

During discussion of the item, Members questions were answered and it was highlighted that previously a cross party working group had been established to consider any constitutional updates.

Following a detailed discussion, the Committee welcomed this approach and agreed that the changes made by the cross party working group would be reported to this Committee for consideration prior to being considered at a meeting of Full Council. The Committee also discussed Annexes 5 to 10 and acknowledged that these were minor amendments and having being put to the vote, it was unanimously:

Resolved:

- i) That the proposed constitutional changes within Annexes 6, 8 and 10, of the report, (Appendix 11, Contract Procedural Rules, Article 11, Staffing Matters and Urgency Committee and Appendix 12, Officer Employment Procedure Rules) be endorsed for transmission to Full Council subject to:
  - the Monitoring Officer verifying the exact statutory wording that governed how a Political Group qualified for a Political Assistant (Annex 8, point 2.1).
  - the word 'majority' be changed to 'largest' within Annex 8, point 2.1.c.
  - Chief Operating Officer be changed to Head of Paid Service within paragraph 3.1 b. of Annex 8.

- removing the gender pronouns in paragraph 11.3 of Annex 8.
  - including an explanation on how votes were administered.
  - referencing that they were towns within the city, and not just parishes.
  - also including the title Lady Mayoress throughout the document.
- ii) That any further minor amendments be promptly received for submission to Full Council on 21 November 2023.
- iii) That a cross party working group be established to consider the Constitutional changes for onward endorsement by the Audit and Governance Committee on 28 February 2024 then Full Council on 21 March 2024.

Reason: To allow the Committee to consider the proposed Constitutional changes, propose such amendments as the Committee considers necessary, and endorse their onward transmission to Council for final approval.

Cllr Hollyer, Chair

[The meeting started at 5.34 pm and finished at 8.31 pm].