

Meeting	Audit & Governance Committee
Date	22 February 2017
Present	Councillors N Barnes (Chair - in the Chair agenda items 1 and 2), Dew (Vice-Chair - in the Chair agenda items 3 to 9), Cuthbertson, Flinders, Kramm, Steward (Substitute for Councillor Lisle) and Mason (Substitute for Councillor Fenton) and Mr Bateman and Mr Mendus
In attendance	Councillor Doughty and Councillor Warters
Apologies	Councillor Fenton

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**60. 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. No additional interests were declared.

**61. Exclusion of Press and Public**

Members were asked to consider excluding the public and press from the meeting during consideration of Annex 1 of agenda item 5 on the grounds of containing information relating to individuals. This information is classed as exempt under Paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

The Monitoring Officer was asked to explain the reasons why the committee was being asked to consider excluding the public and press during consideration of the annex. He explained that it was the view of officers that the annex satisfied the requirement of paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act (information relating to any individual and information which is likely to reveal the identity of an individual). These exemptions were subject to a public interest test but it was the view of officers that the information

that had already been published by the Council met the requirement of the public interest test. In reaching this conclusion, regard had also been taken of guidance produced by the Information Commissioner's Office in which there was a strong expectation of privacy and consideration of the impact on individuals. Members' attention was drawn to the extreme level of attacks on the individuals concerned on social media. The press had published extracts of the report but consideration should be taken as to the impact and damage to individuals if additional information was made public. The Monitoring Officer asked that Members also considered the significant risk for future internal audits, as if such information were to be made public, contributors to audits may be much more circumspect.

Councillor Flinders moved, and Councillor Barnes seconded a proposal that the public and press be excluded from the meeting during consideration of Annex 1 of agenda item 5. On being put to the vote the proposal was lost.

*Resolved: That the press and public not be excluded from the meeting during consideration of Annex 1 of agenda item 5.*

Those Members who had voted against the proposal were asked by officers to give their rationale for having voted not to exclude the press and public during consideration of Annex 1 in view of the possibility of a civil claim or investigation by the ICO. Having discussed the rationale for this request Members gave the following reasons:

- It was in the public interest for the press and public not to be excluded during consideration of the annex.
- Whilst there was a duty to protect employees, the vast majority of staff would be tarred by secrecy and wrongdoing.
- The report did not name individuals and the information had been redacted so as not to identify individuals.
- Greater identification of individuals was already available, for example through Freedom of Information requests that were in the public domain.
- The report should not have been exempt when published.
- The report could be discussed without reference to individuals.

There followed a discussion about the consequences and risks of this decision.

In view of the *additional information that had been received, Councillor Flinders proposed and Councillor Barnes seconded that the vote be retaken. On being put to the vote the proposal was lost.* ~~further discussion that had taken place, a further vote was taken and it was~~

~~Resolved: That the press and public not be excluded from the meeting during consideration of Annex 1 of agenda item 5.~~

[The Chair announced that, in view of the advice given by officers and the risks to the Council in making the annex public, he intended to vacate the Chair and leave the meeting. The Vice-Chair took the Chair].

Mr Bateman drew attention to the fact that the independent members of the committee did not have voting rights and suggested that, in light of the discussions that had taken place, clarity on the role and status of the independent members should be sought outside of the meeting.

*[as amended at meeting of 5 April 2017]*

## **62. Minutes**

Resolved: That the minutes of the meeting held on 8 February 2017 be approved and signed as a correct record.

## **63. Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme and that two Members of Council had also registered to speak at the meeting.

~~Ms Gwen Swinburn expressed her views in relation to breaches of the procurement rules and asked the Council to take action in respect of this~~ *deep concerns regarding allegations of secrecy and multiple failings in finance and governance. She asked Councillors to demand Police action for an independent investigation by CIPFA and that statutory officers be held to account.* *[as amended at meeting of 5 April 2017]*

Councillor Warters raised concerns relating to the breaches of financial procedures and a failure to maintain records. He asked for a police investigation.

Councillor Doughty expressed concern regarding issues that had been raised in respect of procurement and the effectiveness and independence of the audit and monitoring procedures. He stated that he believed that the Council should launch an independent investigation to ascertain whether these had been isolated issues.

#### **64. Internal Audit Report on Procurement of Consultants**

Members considered a report which informed them of the results of a recent internal audit investigation into the procurement of an external consultant.

The Deputy Chief Executive and Director of Corporate Services explained the background to the internal audit investigation and the reasons why the internal audit review had been instigated. He clarified that, although the word “illegal” had been used during the meeting, a failure to follow council procedures did not mean that the action taken was illegal. The officer concerned had the authorisation to make the payments.

The Chief Executive gave an update on the action that she had taken since the internal audit investigation. She stated that the Veritau report had not identified any fraud and she had commissioned a Police investigation and this had confirmed that there was no evidence of fraud *had been found*.

[Councillor Flinders stated that he did not believe that consideration of the internal audit report in public to be in the public interest or in the interests of council-tax payers and left the meeting at 6.20pm]

The Head of Internal Audit stated that the auditors could find no documentary evidence to demonstrate that the council’s contract procedure rules had been followed. This was, however, an internal matter and there had been no fault on the part of the independent consultant. Improvements had already been implemented to strengthen control measures and further improvements were planned.

In response to a questions from Members, the Head of Internal Audit ~~confirmed~~ *did not confirm* that Veritau was satisfied that sufficient work had been carried out to show that the work that had been paid for had been carried out. He stated that no evidence of fraud had been found and that the matter had been referred to the police who had confirmed that conclusion.

In response to a further question the Head of Internal Audit confirmed that a previous internal audit report, which had been presented to the Audit and Governance Committee, had identified issues surrounding the use of consultants and that processes since that time had been strengthened. Officers were asked if the work referred to in the report in respect of Lendal Bridge had been carried out. The Deputy Chief Executive and Director of Corporate Services stated that, whilst not certain, he would have expected that this work had been done.

Clarification was sought regarding the paragraphs in the report which were redacted. Members were informed that this was because this related to matters that were still subject to audit investigation. Officers confirmed that these issues did not specifically concern the situation under discussion.

Referring to the number of breaches, officers were questioned as to why these had not been identified during the period of the contractual relationship. The Head of Internal Audit stated that the Council had arrangements in place in respect of failures to follow procedures and contract procedure rules. The Deputy Chief Executive and Director of Corporate Services explained the overall level of procurement activity within the Council and stated that the focus was inevitably on higher sums. Work was ongoing to increase compliance activity but there were limits on the resources available to conduct this compliance. Officers outlined the arrangements that were in place during the procurement process, including the segregation of duties and responsibilities and limits on authority to incur expenditure.

Referring to the reference in paragraph 2.7 of the Internal Audit Report, clarification was sought as to whether historical information on tender processes was held beyond a year. Officers stated that this had referred to documentation during the procurement route and not the actual contract.

Members questioned whether a similar situation could arise in the future. They were informed that a guarantee could not be given that every purchase made in the Council would be in accordance with procedures. The organisation was large and complex. Monitoring arrangements had, however, been strengthened and when breaches were identified action would be taken, including HR procedures if appropriate.

Officers were asked about the possibility of all expenditure going through the procurement team and whether this would also result in economies of scale. Officers explained some of the issues that this cause, including making it difficult to make day to day purchases to enable effective service delivery. Whilst some Members suggested that there was a need for further investigation, others stated that the investigation should not be extended and that the committee should focus on monitoring the improvements that had been introduced.

Councillor Steward proposed and Cllr Kramm seconded the following recommendation:

- (i) That the report be noted
- (ii) That, in view of the ongoing work by Veritau in respect of the redacted information in the Internal Audit Report, an update be given on the further work that was taking place after this had been concluded.<sup>1</sup>
- (iii) That, in respect of paragraph 2.19 of the Internal Audit Report, the Executive be asked to consider whether further work was required to identify whether the work referred to represented value for money<sup>2</sup>.

On being put to the vote the recommendation was declared carried and it was

Resolved: That the above recommendations in respect of the internal audit report on Procurement of Consultants be approved.

Action Required

- 1. Report to be presented to committee when available. MT
- 2. Refer the committee's recommendation to the Executive CT

*[as amended at meeting of 5 April 2017]*

## **65. Mazars Procurement Issues Report**

Members considered a paper which presented, at Annex A, a report from Mazars – the Council’s external auditors, on issues arising from the objection to the 2015/16 accounts. The report covered the work undertaken to investigate the issues raised by the objection and the key findings.

The representatives from Mazars were asked to explain the statement in their report that Veritau had reached “reasonable conclusions based on the evidence available”. Members were informed that it was the view of Mazars that the internal audit review had been properly scoped and thorough. Mazars understood the conclusions and these were supported by the evidence. When the representative from Mazars was asked if they would have reached the same conclusion he stated that, based on the evidence, he believed this to be the case.

*In response to a question from Councillor Steward, Gareth Davies from Mazars said of the situation that he was not sure it could have been any worse. [as amended at meeting of 5 April 2017]*

The representatives from Mazars were asked if they believed that the system that was in place at the time had been adequate. They stated that the system was similar to those in other Local Authorities but the issue had arisen because processes had not been followed.

In response to questions, the representatives from Mazars stated that as technology continued to improve, Purchase to Pay systems evolved and became more sophisticated. It was not, however, a matter for auditors to advise on the purchase of systems as this was a resources issue for the organisation concerned.

Members noted that Jon Leece would be taking over Gavin Barker’s responsibilities in respect of work for City of York Council. Thanks were expressed to Gavin Barker for the work that he had carried out.

Resolved: That the matters set out in the report presented by Mazars be noted.

Reason: To ensure that Members are aware of the issues and the action already being taken by the Council.

## **66. Procurement Action Plan**

Members considered a report which set out the management response to the reports elsewhere on the agenda from Mazars, the Council's external auditors, and Veritau, the Council's internal auditors, on issues arising from the objection to the 2015/16 accounts.

Members were informed that the issues raised in the Internal Audit Report were being taken very seriously and work was already underway to make the necessary improvements. The actions had been agreed with the internal and external auditors.

Officers gave an update on the progress of the actions in the plan and responded to Members' questions, including those relating to the contract register.

Clarification was sought as to how actions within the action plan were being prioritised. Officers stated that good progress had already been made in implementing the action plan but that priorities could be changed if required. Officers explained that many procurement decisions and issues were the responsibility of managers and not the procurement team and hence it was also important for there to be the right culture in which procurement processes were carried out. Members noted that the contract register included contracts in respect of maintained schools but that companies owned by City of York Council had their own contract procedure rules in place and that this may be an area which the Shareholder Committee may wish to consider.

Members sought further information as to how breaches were identified and the actions that were taken when these occurred. Officers confirmed that details of the membership of the Governance, Risk and Assurance Group (GRAG) would be circulated, as had been requested at the previous meeting. Members requested that they also received information on the breaches that were identified.<sup>1</sup>

Councillor Steward proposed and Councillor Kramm seconded a proposal that the Corporate and Scrutiny Management



Committee be asked to consider how Members could be involved in the monitoring of procurement processes. On being put to the vote the motion was declared carried.

- Resolved: (i) That the action plan, attached at Annex A of the report, and the progress achieved to date be noted.
- (ii) That the Corporate and Scrutiny Management Policy and Scrutiny Committee be asked to consider how Members could be involved in the monitoring of procurement processes.<sup>2</sup>

- Reasons: (i) To ensure that Members are aware of the action being taken by the Council.
- (ii) To enable consideration to be given as to how Members could contribute to ensuring effective procurement procedures were being implemented.

Action Required

1. Circulate requested information
2. Refer recommendation to Corporate & Scrutiny Management Policy & Scrutiny Committee

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**67. Audit and Governance Committee Forward Plan to December 2017**

Members gave consideration to a report which presented the future plan of reports expected to be presented to the committee during the forthcoming year to December 2017. Members were invited to identify any further items they wished to add to the Forward Plan.

Resolved: That the committee's Forward Plan for the period up to December 2017 be approved.

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

Councillor N Barnes, Chair

[The meeting started at 5.30 pm and finished at 8.50 pm].