

Notice of meeting of

Audit & Governance Committee

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| To: | Councillors B Watson (Chair), Brooks (Vice-Chair), Bowgett, Jamieson-Ball, Scott, Kirk and R Watson |
| Date: | Monday, 21 September 2009 |
| Time: | 5.30 pm |
| Venue: | The Guildhall, York |

AGENDA

Note:

As agreed at previous meetings, the Chief Internal Auditor and District Auditor (Audit Commission) will be present in the meeting room from 5:00 pm to provide a private briefing for Members, if required.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Exclusion of Press and Public

To consider the exclusion of the press and public from the meeting during consideration of the following:

Agenda Item 13 on the grounds that it contains information relating to an individual. This information is classed as exempt under paragraphs 1 and 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).

3. Minutes (Pages 3 - 14)

To approve and sign the minutes of the meeting of the Audit & Governance Committee held on 29 June 2009.

4. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is Friday, 18 September at 5:00 pm.

5. Audit and Governance Committee Forward Plan 2009 (Pages 15 - 20)

This report presents the future plan of reports expected to be presented to the Committee during 2009/10.

6. Annual Governance Report - Audit Commission (Pages 21 - 62)

This report presents the Annual Governance Report of the External Auditor in respect of the 2008/09 audit year, for members' consideration and approval of recommendations in relation to the Council's 2008/09 Statement of Accounts. **[Report published with this agenda on 16/9/09; revised version of Annex A published on 21/9/09].**

7. Use of Resources 2008/09: Audit Commission Report (Pages 63 - 86)

This paper introduces a report (see annex) prepared by the Audit Commission summarising the findings from the Use of Resources Assessment relating to the financial year 2008/09 which is now operating within the Comprehensive Area Assessment (CAA) framework. **[Report published with this agenda on 15/9/09].**

8. Grant Claim Certification Report 2007/08 - Audit Commission (Pages 87 - 108)

The purpose of this report is to allow consideration of the Grant Claim Certification Report 2007/08 produced by the Audit Commission (Annex 1). The report reviews the Council's arrangements for the preparation and administration of grant and subsidy claims within the council.

9. External Funding/Grant Guidance Manual (Pages 109 - 124)

The purpose of this paper is to present to Audit and Governance Committee (A&G) for discussion and comment, the draft External Funding/Grant Guidance Manual, which will form part of the supplementary guidance to the Financial regulations.

10. International Financial Reporting Standards (Pages 125 - 132)

The purpose of this report is to inform members of the implications of the pending introduction of International Financial Reporting Standards (IFRS) and the change in financial reporting from UK General Accepted Accounting Practice (GAAP).

11. Regulation of Investigatory Powers (RIPA) Inspection Outcomes and Actions (Pages 133 - 138)

This report advises Members of the outcome of Surveillance Commissioners inspection in June 2009 and the proposed response to the Inspectors recommendations. It also informs Members of possible changes that might affect the legislation and its use.

12. Key Corporate Risk Monitor - Quarter 2 2009/10 (Pages 139 - 148)

The purpose of this paper is to provide Audit & Governance Committee (A&G) with the quarter two risk monitor for 2009/10 .

13. Mansion House Security and Insurance (Pages 149 - 166)

This report sets out a number of issues relating to the physical and electronic security of the Mansion House and the Mansion House/Guildhall Yard. It also identifies where those issues impact upon people, i.e. staff/Civic Party/visitors and sets out some proposed improvements, including suggested revisions to insurance arrangements.

14. The Introduction of a Corporate Approach to Handling Petitions and e-Petitions (Pages 167 - 180)

Further to a request from the Audit and Governance Committee in March 2009, this report details how petitions are currently being dealt with across the Council, sets out a corporate approach for

handling those petitions and proposes the introduction of e-petitioning, i.e. by the public via the internet, in line with legislative changes.

15. Proposal for Constitutional Amendment: Removal of the Shadow Executive from the Formal Decision Making Framework (Pages 181 - 186)

This report outlines a proposal put forward by Cllr Gillies, under the provisions of Article 16 of the Council's Constitution, to amend the Constitution so as to remove the Shadow Executive from the Council's formal decision making framework.

16. The Local Government Ombudsman's Annual Review Year Ending 31 March 2009 (Pages 187 - 204)

This report asks Members to note the information highlighted in the recently received Annual Review from the Local Government Ombudsman, which sets out data on complaints against City of York Council that have been processed during the 12 Months up to 31st March 2009.

17. Review of the Audit & Governance Committee's Terms of Reference (Articles & Functions) (Pages 205 - 214)

This paper asks Audit and Governance members to consider the addition of an independent adviser to the Committee as part of a review of the Committees Terms of reference (TOR) as contained in the Council's Constitution.

18. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
- E-mail – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Further information about what's being discussed at this meeting

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The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

| | |
|-----------|---|
| MEETING | AUDIT & GOVERNANCE COMMITTEE |
| DATE | 29 JUNE 2009 |
| PRESENT | COUNCILLORS B WATSON (CHAIR), BROOKS (VICE-CHAIR), SCOTT, KIRK, R WATSON AND GUNNELL (SUBSTITUTE) |
| APOLOGIES | COUNCILLORS BOWGETT AND JAMIESON-BALL |

1. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

2. MINUTES

With reference to part b) of the resolution under Minute 41 (Audit and Governance Committee Forward Plan 2009), a briefing note was circulated to Members containing the information requested on the granting of Landlord's Consent in respect of planning applications on Council owned land. It was noted that this document would be published with the minutes of the current meeting.

RESOLVED: That the minutes of the Audit and Governance Committee meeting held on 31 March 2009 be approved and signed by the Chair as a correct record.

3. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

4. AUDIT AND GOVERNANCE COMMITTEE FORWARD PLAN 2009

Members considered a report which presented a plan of items expected to be presented to the Committee during 2009/10, together with proposals to increase the number of meetings following a Members' self assessment session against CIPFA best practice guidance for Audit Committees.

A plan of items proposed for the next two scheduled meetings of the Committee, in September 2009 and January 2010, was attached at Annex 1. Members were invited to identify any further items they wished to add.

At the self-assessment session, concerns had been expressed about the frequency of meetings and the number of items on each agenda. It was

therefore proposed to increase the number of meetings to six per year, as follows:

- September 2009 – as scheduled
- Early December 2009 (extra meeting) - outcomes of the CAA
- February 2010 (instead of January 2010)
- April 2010 – early consideration of draft Annual Governance Statement
- June 2010 – Statement of Accounts and associated reports
- July 2010 – all other reports that would have gone to the June meeting

A more detailed work programme, detailing the items planned for the revised and additional meetings, would be brought to the Committee in September.

RESOLVED: (i) That the Committee's forward plan for the period to January 2010 be noted.

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

(ii) That approval be given to increase the number of Committee meetings to six per year, in line with the proposals at paragraph 4 of the report.¹

REASON: To ensure the Committee has time to give full and effective consideration to all reports and proposals put before them.

Action Required

1. Liaise with Democratic Services to schedule appropriate meeting dates in corporate diary SA

5. REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT 2008/09

Members considered a report which advised them of the process and outcomes of the 2008/09 review of the effectiveness of the Council's system of Internal Audit, as required by the Accounts and Audit Regulations 2003

Work undertaken as part of the review was outlined in paragraph 14 of the report. Progress against the four recommendations for improvement in the 2007 Audit Commission report was set out in paragraph 16. The Audit Commission had raised no matters of concern regarding Internal Audit in their reports published in 2008/09 and reported to the Committee at previous meetings. The Code of Practice self-assessment checklist had been updated for 2008/09. Areas for development to be built into this year's work plans included updating the Terms of Reference and the Constitution to reflect the transfer of the service to Veritau Ltd. and a full skills audit of all Veritau staff. Results of the customer satisfaction surveys,

as summarised in Annex B, indicated an overall weighted average score of 77.3%. Benchmarking results for 2008/09, as summarised in Annex C, showed that York's internal audit function remained cost effective compared with other unitary authorities.

Based on the results of this review, the Council's system of internal audit was considered to be operating in accordance with accepted best practice and remained effective.

Members expressed their congratulations on the results of the customer satisfaction surveys. Queries were raised regarding the basis of the benchmarking results on cost effectiveness. Officers indicated that they could provide additional information about this if required.

RESOLVED: That the results of the review of the effectiveness of the Council's system of internal audit be noted.

REASON: So that Members are informed about the adequacy and effectiveness of the Council's control environment.

6. ANNUAL REPORT OF THE CHIEF INTERNAL AUDITOR

Members considered a report which summarised the outcome of audit and fraud work undertaken during 2008/09 and provided an opinion on the overall adequacy and effectiveness of the Council's internal control arrangements.

The service had delivered 94.2% of the 2008/09 internal audit plan by 30 April 2009. Details were provided in Annex 2 to the report. A summary of the counter fraud work undertaken in accordance with the plan was provided in Annex 3. The opinion of the Chief Internal Auditor, as set out in Annex 1, was that the Council could continue to place reliance on the adequacy and effectiveness of its systems of internal control and the control environment.

It was noted that the implementation of internal audit recommendations could not eliminate risk and Members' attention was drawn to the following significant control weaknesses considered relevant to the preparation of the 2008/09 Annual Governance Statement:

- Inconsistencies in the application of policies relating to the declaration of employees' interests and acceptance of gifts and hospitality
- Weaknesses in the Council's financial accounting arrangements, including the systems for accounting for fixed assets
- Weaknesses in financial and monitoring arrangements during 2008/09.

Management had already identified actions to address these issues, some of which had been reported to the Committee in March.

RESOLVED: (i) That the results of the audit and fraud work undertaken in 2008/09 be noted.

REASON: So that Members are aware of the implications of audit and counter fraud findings.

(ii) That the opinion of the Chief Internal Auditor on the adequacy and effectiveness of the Council's control environment be accepted.

REASON: In accordance with the information provided in the report and the answers provided to Members' questions at the meeting.

(iii) That the significant control weaknesses identified during the year which are relevant to the preparation of the Annual Governance Statement (AGS) be noted.

REASON: To enable the AGS to be prepared.

(iv) That, in future annual reports, information be provided on the numbers of Housing and Council Tax Benefit fraud investigation cases opened and closed during the year.¹

REASON: To give a clearer picture of the work actually undertaken during previous year.

Action Required

1. Make arrangements to ensure this information is included SA
in future

**7. RISK MONITOR QUARTER ONE 2009/10 AND RISK MANAGEMENT
OUTTURN REPORT 2008/09**

Members considered a report which presented the quarter one risk monitor for 2009/10 and informed them of progress made during 2008/09 in embedding corporate risk management across the organisation.

The risk monitor, showing the position of the Key Corporate Risks (KCRs) at the end of the first quarter, was attached as Annex A to the report. Attention was drawn in particular to those identified as critical (red) risks, namely:

- KCR 0001 – Implementation of the new pay & grading structure
- KCR 0002 – Accommodation Review Project
- KCR 0003 – Waste Management Strategy Partnership

With reference to the further information requested by Members at the last meeting, details of the key risks and issues facing the Accommodation Review Project, as provided by the Director of City Strategy, were attached as Annex B and Officers from City Strategy were in attendance to present the information and answer Members' questions. Due to the complexity of the security and insurance concerns relating to the Mansion House and Civic Regalia, it was recommended that a separate report on these issues be brought to the Committee in September.

Overall, there was evidence that the organisation was considering risk in a much more positive way. Risk was now owned, managed and delivered as

part of good business practice by officers across departments and was no longer viewed as a separate bureaucratic process. A summary of changes in the KCR profile indicated that in most cases the number of risks had reduced over the course of the year. Work had been undertaken during 2008/09 to ensure that risk management would score at least a level 3 (Good) in the 2009 Use of Resources (CAA) assessment, having consistently scored level 2 (Fair) under the CPA inspection process. The 2009/10 work plan reflected a continued need to embed risk management into all Council processes, raise awareness through further training and align the risk register to the refreshed Corporate Strategy.

RESOLVED: (i) That the contents of the report, and progress made to date, be noted.

REASON: So that Members are aware of progress on risk management arrangements in the Council.

(ii) That the risks set out in paragraph 7 and Annex A to the report be noted.

REASON: So that Members are aware of progress made to date in developing the corporate monitoring and reporting arrangements for the Council's KCRs.

(iii) That an update on the financial risks of the Accommodation Review Project (including those identified as 'green' or low risk) be included in the report to the next meeting in September. ¹

REASON: To provide assurance that these risks are being appropriately managed by the organisation.

(iv) That a formal report on securing issues at the Mansion House be presented to the meeting in September. ²

REASON: To provide assurance that key risks associated with the Mansion House and Civic Regalia are being properly managed by the organisation.

Action Required

- | | |
|---|----|
| 1. Ensure this information is included in the report to Committee in September | SA |
| 2. Liaise with appropriate Officers to ensure this report is produced for the September meeting | SA |

8. 2008/09 ANNUAL GOVERNANCE STATEMENT

Members considered a report which invited them to approve the draft Annual Governance Statement (AGS) to be published as part of the Statement of Accounts for 2008/09.

Details of the processes followed by the Officer Governance Group (OGG) in compiling the draft AGS and evaluating control issues were set out in paragraphs 5 and 6 of the report. The draft itself was attached as Annex 1 to the report. It included three new significant control issues and five areas of ongoing work from the 2007/08 AGS. Since many of the areas highlighted in the AGS were already included in the refreshed Improvement Plan (IP) and the Resources Directorate Plan (RDP), it was not intended to produce a separate improvement plan for the AGS. The implementation of IP actions would be monitored by the Executive on a quarterly basis as a minimum, while the RDP was monitored monthly by the Director of Resources.

Officers highlighted a correction to paragraph 2.1.4 of the draft AGS, which should read as follows:

“Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.”

RESOLVED: (i) That the content of the 2008/09 Annual Governance Statement, including the significant control issues identified, be approved.

REASON: To confirm that Members are satisfied with the effectiveness of the Council’s governance framework.

(ii) That the monitoring arrangements for the overall AGS action plan be noted.

REASON: So that Members are aware of the proposed monitoring arrangements.

(iii) That the Committee receive regular reports on governance issues in the future.¹

REASON: To ensure that these matters continue to be properly monitored.

Action Required

1. Schedule report on Committee's forward plan

SA

9. STATEMENT OF ACCOUNTS 2008/09

Members considered a report which asked them to examine and approve the Council’s pre-audit Statement of Accounts for 2008/09.

It was a statutory requirement for the Council to approve the Statement of Accounts by 30 June 2009. This function had been delegated to the Audit and Governance Committee by Full Council in January 2009. Printed copies of the draft pre-audit Statement of Accounts had been circulated to Members and made available to view on the Council’s website as Annex B to the report. A brief explanation and information on its constituent parts was provided at Annex A. Members had also received a presentation, on 22 June 2009, to enhance their understanding of the document. Once

approved, the accounts would be made available for public inspection on 13 July 2009. The audit would begin on 10 August and the Audit Commission expected to issue a report and opinion by the end of September.

A schedule of changes identified through the quality review after publication of the agenda was circulated at the meeting. These had now been included in the draft Statement as published on the Council's website.

Having questioned Officers on a number of points of detail in the draft Statement, it was

RESOLVED: That the pre-audit Statement of Accounts for the financial year ended 31 March 2009 be approved.

REASON: In accordance with statutory requirements and the authority delegated to the Audit & Governance Committee by Full Council to approve the Statement of Accounts.

10. DRAFT REVISED FINANCIAL REGULATIONS

Members considered a report which invited them to comment on the content and format of the draft revised Financial Regulations and to recommend the Regulations to the Executive for approval.

The draft Regulations, attached as Annex A to the report, were intended to be more flexible and concise, maintaining the key principles of the current regulations, whilst reflecting the more devolved decision making system adopted by the Council. The current Procurement Regulations had been separated into a devolved set of regulations and re-named the Contract Procedure Rules (CPRs). The Financial Regulations and CPRs were underpinned by a set of supplementary guidance documents to form a comprehensive set of financial procedures, as shown in paragraph 5 of the report. Key changes made to the Regulations were listed in paragraph 6.

It was noted that the revised CPRs were still at an early draft stage and would be brought to the Committee in September for consultation, together with the External Funding / Grant Guidance Manual.

Officers reported at the meeting the following amendments made to the draft Regulations since publication of the agenda, both relating to the budget monitoring procedures:

- Provision for overspends in departments be paid back within three years, subject to approval by the Chief Financial Officer (CFO)
- Provision for Directors to transfer 25% of their underspends into the service reserve, subject to approval by the CFO.

RESOLVED: (i) That Officers be requested to make the following amendments to the draft Regulations at Annex A:

- a) In paragraph 6d) of Part B, delete '*discretion*' and substitute '*a statutory duty*'.

b) In paragraph 11 of Part C, delete '*has the right to*' and substitute '*should*'.

c) In paragraph 9 of Part E, add a further sub paragraph:
'(i) *ensuring there is no conflict of interest with third parties.*'

(ii) That, subject to these amendments and the changes reported by Officers at the meeting, the draft Financial Regulations be recommended to the Executive for approval.

REASON: To ensure that the revised Financial Regulations are appropriate in maintaining the integrity of the Council's financial arrangements.

11. AUDIT COMMISSION DATA QUALITY REPORT 2008

Members considered a report which presented the results of the Audit Commission's 2008 review of the Council's Data Quality arrangements, together with details of action taken and planned to address these findings.

The Audit Commission's report was attached as Annex 1. Overall, the Council's corporate arrangements for ensuring data quality had been judged as 'adequate', equating to a CPA score of 2 out of 4. This was score common to most councils, in view of the time needed to implement the revised approach introduced in 2006. The report acknowledged that the Council had made significant progress in improving its data quality arrangements and taking action to address key challenges identified in previous audits. However some indicators required further work and one (BV215B) had been reserved. Action had since been taken to address the problems with this indicator.

Progress on addressing the findings of the Audit Commission's 2007/08 BVPI inspection was detailed in Annex 2. Areas for improvement that were being addressed as a matter of priority were listed in paragraph 11 of the report. A revised data quality action plan, updated to take account of these priority areas and the Audit Commission's latest recommendations was attached at Annex 3 for Members' approval. Progress on the improvements set out in the plan would be reported to the Committee every six months, as previously agreed.

Members requested further information on the current status of the reserved indicator BV215B, relating to repairs carried out on network operator controlled street lighting. Officers agreed to circulate this by e-mail.¹

RESOLVED: That the revised data quality action plan at Annex 3 to the report be approved.

REASON: To ensure that continual improvement is made to the Council's data quality arrangements, which will also help to support the CAA.

Action Required

1. Circulate this information as requested

SA

12. AUDIT COMMISSION 2008/09 REVISED PLAN AND 2009/10 PLANS

Members considered a report which presented the following plans and associated fee structures received from the Audit Commission:

- Supplementary Opinion Audit Plan 2008/09 (Annex 1)
- Annual Audit Plan 2009/10 (Annex 2)
- Annual Inspection Plan 2009/10 (Annex 3).

The District Auditor (DA) was in attendance to explain the plans and respond to any questions from Members. In response to queries about the fees, the DA confirmed that these were related to the amount of work done. Effective use of the web portal for the Statement of Accounts working papers could help reduce the time spent on audit work and, consequently, the fees.

RESOLVED: (i) That the matters set out in the Audit Plans presented by the District Auditor and the CAA Lead Inspector be noted.

REASON: To ensure the effective deployment of scarce external audit resources to best effect.

(ii) That the Plans be agreed.

REASON: To ensure that the external audit and inspection process contributes effectively to the Council's system of internal control.

13. SUMMARY OF AUDIT COMMISSION NATIONAL REPORTS

Members considered a report which provided an overview of national reports produced by the Audit Commission during 2009 and invited them to comment on any areas for further consideration by the Committee or by Officers.

Summaries were provided of the following reports:

- Tired of hanging around: using sport and leisure activities to prevent anti-social behaviour by young people (published 28 January 2009)
- CAA framework and guidance (published 25 February 2009)
- Final Score: the impact of the Comprehensive Performance Assessment of local government 2002-08 (published 5 March 2009)
- Risk and return: English local authorities and the Icelandic banks (Published 26 March 2009)
- Working better together? Managing local strategic partnerships, (Published 21 April 2009)
- Summing up: A review of financial management in local government 2005-2008. (Published 23 April 2009)
- Managing the transition to IFRS. (Published 4 May 2009)

- Room for Improvement: A review of strategic asset management in local government (Published 17 June 2009)

Officers suggested that, where the reports did not impact directly on governance or internal control arrangements, the appropriate method for further consideration might be via the Council's Scrutiny process.

RESOLVED: (i) That the overview be noted and that the following report of the Audit Commission be referred to the Council's Scrutiny section for further consideration:¹

"Tired of hanging around: using sport and leisure activities to prevent anti-social behaviour by young people" (published 28 January 2009)

(ii) That information on the following report be brought to the next meeting of the Committee, in September:²

"Room for Improvement: A review of strategic asset management in local government" (Published 17 June 2009)

REASON: To ensure that the Council can benchmark, learn from and meet best practice requirements derived from external audit national activity and enhance its governance frameworks as a result.

Action Required

1. Liaise with the Scrutiny section re how this referral can be dealt with SA
2. Bring report to next meeting SA

14. ANNUAL INTERNAL AUDIT AND FRAUD PLAN FOR 2009/10

Members considered a report which sought approval for a planned programme of internal audit and fraud work to be undertaken during 2009/10.

The draft 2009/10 Internal Audit Plan was attached as Annex 1 to the report. As in previous years, priority had been given to 'high' and 'medium' risk areas because current resources did not allow all areas to be reviewed in accordance with the required frequency. Account had also been taken of the results of consultation with senior officers and the views of the Audit & Governance Committee, following the consultation report to the Committee in March. The draft 2008/09 Counter Fraud Activity Plan was attached at Annex 2. This was based upon current resources and included details of activity in relation to fraud awareness, detection and investigation, and proactive work.

In response to questions from Members, Officers confirmed that there would be no penalty imposed on the new shared service, Veritau Ltd., for failing to meet targets as this would simply fall upon the participating councils. However, Director and Member representation on the Board,

together with monitoring arrangements, would ensure the effectiveness of the service.

RESOLVED: (i) That the 2009/10 internal audit and counter fraud activity plans be approved.

REASON: In accordance with the Committee's responsibility for overseeing the work of internal audit.

(ii) That an update report on the progress of the service towards meeting its performance targets be scheduled on the Committee's Forward Plan. ¹

REASON: To ensure that the new shared service is performing effectively.

Action Required

1. Schedule update report on forward plan

SA

B Watson, Chair

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

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Audit and Governance Committee

21 September 2009

Report of the Director of Resources

Audit & Governance Committee Forward Plan 2009/10

Summary

1. This paper presents the future plan of reports expected to be presented to the Committee during 2009/10 in line with the decision to increase the number of meetings to six as agreed at the last Committee on 29th June 2009.

Background

2. There are to be six fixed meetings of the Committee in a municipal year. To assist members in their work, attached at Annex A is the indicative rolling Forward Plan for the remaining meetings in 2009/10. This may be subject to change depending on key internal control and governance developments at the time. A rolling Forward Plan of the Committee will be reported at every meeting reflecting any known changes. The plan will also include any training/briefing events to support members in their role on the Committee.
3. As agreed with the Chair of the Committee the expected report to this meeting on Asset Management will now be reported at the December meeting. This will include a response to a recent Audit Commission report on Asset Management and to reflect the outcomes of MoreforYork blueprinting work on Property Services.
4. The Chair and Vice-Chair have indicated that the Contract Procedure Rules and Debt Policy (also originally expected at this meeting) should be deferred to a future extraordinary meeting of the Committee to reflect the timing of the outcomes of the MoreforYork blueprinting work on the Procurement and Income workstreams. The timing of this will need to allow for Audit & Governance Committee members' views to be included in the reports which will be considered at Executive in November and Council in December.

Consultation

5. Group Leaders have been consulted on the decision to increase the number of committee meetings and no objections to this change has been received.
6. A draft plan has been discussed with the Chair of the Committee and key corporate officers.

Options

7. Not relevant for the purpose of the report.

Analysis

8. Not relevant for the purpose of the report.

Corporate Priorities

9. This report contributes to the overall effectiveness of the council's governance and assurance arrangements contributing to an 'Effective Organisation'.

Implications

10.
 - (a) **Financial** - There are no implications
 - (b) **Human Resources (HR)** - There are no implications
 - (c) **Equalities** - There are no implications
 - (d) **Legal** - There are no implications
 - (e) **Crime and Disorder** - There are no implications
 - (f) **Information Technology (IT)** - There are no implications
 - (g) **Property** - There are no implications

Risk Management

11. By not complying with the requirements of this report, the council will fail to have in place adequate scrutiny of its internal control environment and governance arrangements, it will also fail to properly comply with legislative and best practice requirements, and its Use of Resources score in future CAA assessments could be adversely affected.

Recommendations

12.
 - (a) The Committee's Forward Plan for the period up to July 2010 be noted.

Reason

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

(b) Members identify any further items they wish to add to the Forward Plan.

Reason

To ensure the Committee can seek assurances on any aspect of the council's internal control environment in accordance with its roles and responsibilities.

Contact Details

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Chief Officer Responsible for the report:

Ian Floyd
Director of Resources
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Report Approved

Date 8 September 2009

Specialist Implications Officers

Head of Civic, Democratic & Legal Services

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Audit & Governance Committee Forward Plan 2009/10

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Audit & Governance Committee Draft Forward Plan 2009/10

Training/briefing events will be held at appropriate points in the year to support members in their role on the Committee.

- **Additional Meeting (to be arranged):**

Contract Procedure Rules

Debt Policy

- **21 December 2009**

Annual Audit Letter (first under CAA) – Audit Commission

Update on Governance (including 2008/09 Annual Governance Statement actions and review of actions from last Annual Audit Letter)

Review of Asset Management – Audit Commission

Response on Asset Management including “Room for Improvement: A review of strategic asset management in local government “ (*a specific request from the Committee in June to have a more detailed report on this including a CYC response*)

Data Quality Progress Report

Risk Management Quarterly Monitoring Report

Internal Audit & Fraud Plan Progress Report (including breaches and waivers)

Follow up of Internal and External Audit Recommendations

Review of Terms of Reference of the Audit & Governance Committee (results)

IFRS Update

*Other Audit Commission reports as per agreed Audit & Inspection plan
Audit Commission national reports (if any)
Constitutional change reports (if any)*

- **February 2010**

Update of Counter Fraud Policies

Internal Audit Plan Consultation

Internal Audit & Fraud Plan Progress Report

Audit Commission National Reports Summary

*Audit Commission reports as per agreed Audit & Inspection plan
Constitutional change reports (if any)*

- **April 2010**

Risk Management Quarterly Monitoring Report

Review of Effectiveness of Internal Audit

Follow up of Internal and External Audit Recommendations

IFRS Update

Draft Annual Governance Statement

Approval of Internal Audit Plan

*Audit Commission reports as per agreed Audit & Inspection plan
Audit Commission national reports (if any)
Constitutional change reports (if any)*

- **June 2010**

Annual Internal Audit Report 2009/10

Annual Governance Statement 2009/10

Draft Statement of Accounts 2009/10

*Audit Commission reports as per agreed Audit & Inspection plan
Audit Commission national reports (if any)
Constitutional change reports (if any)*

- **July 2010**

Risk Management Quarterly Monitoring Report

*Audit Commission reports as per agreed Audit & Inspection plan
Audit Commission national reports (if any)
Constitutional change reports (if any)*



Audit and Governance Committee

21 September 2009

Report of the Director of Resources

Annual Governance Report – Audit Commission**Summary**

1. The International Standard on Auditing (United Kingdom and Ireland) – ISA (UK&I) - 260 requires the Audit Commission to report to those 'charged with governance', issues arising from the audit of Financial Statements. The purpose of this report is to bring to Members attention the Audit Commission's Annual Governance Report, agree the Council's response and seek approval to changes to the 2008/09 Financial Statements. A copy of the Audit Commission report is attached at Annex A.

Background

2. In 2006 the Audit Commission introduced revised reporting arrangements that included a new requirement for an Annual Governance Report to be presented to those 'charged with governance' at the council, this requirement has been retained under the new Comprehensive Area Assessment (CAA). The report must be considered by the council before a statutory deadline of the 30 September each year. This report is made in addition to the Annual Audit Letter which will be published in December 2009.
3. International Standard on Auditing (ISA) 260 also requires the Audit Commission to give an opinion on the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion). An unqualified Audit Opinion on the Council's arrangements is anticipated by the 30th September 2009.
4. The Pre-Audit Statement of Accounts 2008/09 were approved by Audit and Governance Committee on 29th June 2009 in accordance with the planned timetable and statutory deadline. Various improvement activities that had been introduced to the Closure of Accounts process were outlined in the covering report presented to the Committee.
5. The nature of the continuing work on the audit of the financial statements accounts has necessitated a delay in the production of these papers. This has resulted from the extremely tight timescales involved in the project, and the need to provide Members with the most up-to date agreed position on the audit for consideration at the meeting. The audit of the accounts will formally continue until the statutory deadline of the 30th September 2009 however during the course of the audit to date, a number of material misstatements

have been identified which the Council proposes to amend, Appendix 2 of the Annual Governance Report schedules those misstatements that the auditor considers are non-trivial.

6. Appendix 3 of the Annual Governance Statement provides an analysis of misstatements to the accounts which the Council proposes not to amend the accounts to reflect. A Letter of Representation (as required by International Auditing Standards) has been prepared for signature by the Chair of this Committee following members consideration of this item. The Letter of Representation will explain that management believes the unadjusted amendments scheduled in Appendix 3 to be immaterial, both individually and in aggregate, to the financial statements as a whole. The letter has been drafted in accordance with the template provided by the Audit Commission. The Council's S151 Officer will also be required to sign this letter.
7. In addition to the Annual Governance Report, a detailed schedule of amendments to the accounts has been provided at Annex B. This annex provides a comprehensive analysis of the impact of the changes referred to in the Annual Governance Report, together with details of trivial changes to the pre-audit statement of accounts which have not been detailed in the Annual Governance Report. A revised Statement of Accounts reflecting all the agreed changes will be available on the day of the meeting to be re-approved by Audit and Governance Committee and signed by the Chair of the meeting.
8. The Annual Governance Report acknowledges significant improvements in the process for closing the accounts. In particular, queries have generally been turned round in accordance with a new protocol agreed with the Auditors. Improvements to the internal Quality Assurance (QA) process have resulted in fewer issues being identified by the Audit Commission, although it is recognised that the internal QA process needs to be embedded even further into the Close of Accounts process for future years in order to ensure fewer errors are presented as part of the Pre-Audit Statement of Accounts.
9. The production of the Statement of Accounts is the subject of continuous review and further improvements will be sought in 2009/10. This will be another challenging year bearing in mind the preparation required towards the implementation of International Financial Reporting Standards (IFRS) in 2010/11, a topic which is the subject of a further report on this agenda.
10. The Annual Governance Report contains an Action Plan which highlights a number of areas for improvement, all of which will be monitored by a Governance Group chaired by the Director of Resources. Key matters raised within the report, which remain unresolved during 2009/10 will be feature in the Annual Governance Statement for 2009/10.

Consultation

11. The report of the External Auditor has been discussed with the relevant responsible officers and has been approved in draft by the S151 Officer. It is reported here for due consultation with those members charged with governance at the council.

Options

12. Not relevant for the purpose of the report.

Analysis

13. Not relevant for the purpose of the report.

Corporate Priorities

14. This report contributes to the overall effectiveness of the council's governance and assurance arrangements. It directly contributes to the corporate priority of 'An effective Organisation' in enhancing financial use of resources within the council.

Implications

15. There are no financial, HR, equalities, legal, crime and disorder, IT or property implications arising from this report.

Risk Management

16. The council will fail to comply with legislative and best practice requirements to provide for the proper audit of the authority if it does not consider this report or approve and sign off the letter of representation now required by International Auditing Standards.
17. By not responding effectively to the matters contained in this report, the council will fail to properly comply with legislative and best practice requirements, and its performance in future CAA assessments could be adversely affected.

Recommendations

18. Members are asked to:
 - (a) note and discuss the matters set out in the Annual Governance Report presented for discussion 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.

- (b) consider the action plan arising from the report as set out in Appendix 5 to the External Auditor's report;

Reason

To ensure appropriate action is being taken by officers to address any matters raised by the External Auditor further to his report

- (c) Consider the items identified in Appendix 2 of the Annual Governance Report and agree to amend the 2008/09 Statement of Accounts for those items.
- (d) Consider the items identified in Appendix 3 of the Annual Governance Report and agree not to amend the 2008/09 Statement of Accounts for those items.
- (e) Approve the amended Statement of Accounts 2008/09
- (f) Approve the letter of representation for signature by the Chair of this Committee, having first considered whether it sufficiently reflects the views and beliefs of the Committee as those charged with governance at the Council

Reason

To ensure compliance with International Auditing Standards and relevant legislative requirements.

- (g) Note the anticipated receipt of an unqualified Audit Opinion to both the Statement of Accounts 2008/09 and the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources

Reason

To ensure Members of the Audit and Governance Committee are aware of any matters arising from the annual audit of the Statement of Accounts.

- (h) Note the improvements to the Closure of Accounts process in 2008/09.

Contact Details

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Ian Floyd
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Report Approved **Date** 15/9/09

Specialist Implications Officers

Not applicable

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Audit and Governance Committee 29th June 2009 – Statement of Accounts 2008/09

Annex

Annual Governance Report 2008/09

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Annual Governance Report

City of York Council

Audit 2008/09

Date

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Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
 - any third party.
-

Ladies and Gentlemen

2008/09 Annual Governance Report

I am pleased to present my report on the results of our audit work for 2008/09.

A draft of the report was discussed and agreed with council officers on 9 September 2009 and has been updated since as issues have been resolved.

The report sets out the key issues that you should consider before I complete the audit.

It asks you to:

- consider the matters raised in the report (pages 7 to 12) before approving the financial statements;
- take note of the adjustments to the financial statements which are set out in this report (Appendix 2);
- agree to adjust the errors in the financial statements I have identified or set out the reasons for not amending the errors; (Appendix 3);
- approve the letter of representation on behalf of the Council before I issue my opinion and conclusion (Appendix 4); and
- agree your response to the proposed action plan (Appendix 5).

Yours faithfully

Steve Nicklin
District Auditor
September 2009

Key messages

This report summarises the findings from the 2008/09 audit which is substantially complete. It includes the messages arising from my audit of your financial statements and the results of the work I have undertaken to assess how well you use and manage your resources to deliver value for money and better and sustainable outcomes for local people.

| Financial Statements | Results | Page |
|--|----------------|-------------|
| Unqualified audit opinion | Yes | 7 |
| Financial statements free from error | No | 7 |
| Adequate internal control environment | Yes | 7 |
| Use of resources | Results | Page |
| Use of resources judgements | Yes | 13 |
| Arrangements to secure value for money | Yes | 16 |

Audit opinion

- 1 The audit of City of York Council's (the Council's) financial statements is nearing completion, although the work on the fixed assets and other areas of the accounts is continuing. Based on the work carried out, and subject to the satisfactory resolution of the material matters in paragraphs 11 to 14, I intend to give an unqualified opinion by the deadline of 30 September 2009. Should any matters come to light between issuing this report and 30 September we will report these separately to the Director of Resources and the Chair of the Audit & Governance Panel.

Financial statements

- 2 We have identified a number of issues that should be adjusted. These are highlighted in paragraphs 8 to 29, and detailed in Appendix 2 and 3. Appendix 2 contains those matters that officers have committed to amend, and Appendix 3 contains the adjustments that officers do not intend to amend.
- 3 The matters relating to the deferred asset and liability in paragraphs 11 and 12 and the fixed asset entries in paragraph 13 are material to the financial statements. Officers have indicated that they intend to amend the financial statements to correct these errors, and hence I will still be able to issue an unqualified opinion on the accounts.

Key messages

- 4 The remaining matters are not material but are not trivial matters, and officers should amend the financial statements or provide suitable reasons for not amending in the management letter of representation (a draft of which is at Appendix 4).

Use of resources

- 5 The Audit Commission's overall draft score for the Council's use of resources is level 2. This takes into account
 - the general strengthening of the Audit Commission's scoring criteria in the new Use of Resources approach this year; and
 - the Council's planned and actual progress, and the positive impact this should have on the Council's arrangements.
- 6 The scores are summarised in this report, but more detail is available in my separate report on the Use of Resources assessment.

Next steps

This report identifies the key messages that you should consider before I issue my financial statements opinion, value for money conclusion, and audit closure certificate. It includes only matters of governance interest that have come to my attention in performing my audit. My audit is not designed to identify all matters that might be relevant to you.

7 I ask the Audit & Governance Committee to:

- consider the matters raised in the report (pages 7 to 12) before approving the financial statements;
- agree to adjust the errors in the financial statements I have identified or set out the reasons for not amending the errors (Appendix 3);
- take note of the VFM Conclusion and the Use of Resources scores (pages 13 to 16);
- approve the letter of representation on behalf of the Council before I issue my opinion and conclusion (Appendix 4); and
- agree your response to the proposed action plan (Appendix 5).

Financial statements

The Council's financial statements and annual governance statement are important means by which the Council accounts for its stewardship of public funds. As Council members you have final responsibility for these statements. It is important that you consider my findings before you authorise the financial statements and the annual governance statement for issue.

Opinion on the financial statements

- 8 Subject to satisfactory clearance of outstanding matters, I plan to issue an audit report including an unqualified opinion on the financial statements. Appendix 1 contains a copy of my draft audit report.
- 9 I need to bring to members' attention that there are still some significant matters still outstanding, and our work is still continuing in some key areas of the audit.
- 10 There are two particular matters to bring to members attention: the first relates to the Balance Sheet entry for Deferred Assets, which is a category that is not permitted by the SORP; and the second relates to the valuation of some fixed assets which is not in accordance with the required accounting standards, and without further work, it is not possible to conclude that this isn't materially mis-stating the fixed asset balance.

Material matters

- 11 The balance sheet includes £19.6m of Deferred Assets. This is explained in Note 24 as relating to the repayment of notional debt in 1999/2000 arising from local government reorganisation. This is offset by an equal amount in Deferred Liabilities, and both the asset and liability are being reduced by £1.2m each year.
- 12 Changes in the SORP and the accounting standards have resulted in this accounting treatment no longer being permitted in the Council's accounts this year, and in our view the need to continue to hold an asset and a liability on the balance sheet has been removed.
- 13 Our testing has identified that £11.6m has been double-counted. It has been wrongly included in Assets under Construction within the Tangible Fixed Assets in the Balance Sheet, as well as being correctly included in the Operational Assets balance. Officers have agreed to amend this entry. Our work is ongoing to confirm that these errors have not been replicated for the other assets in the Assets under Construction entry.
- 14 Our discussions with officers are continuing as to the correct accounting treatment for these two items, but officers have indicated that they intend to amend the accounts for both items.

Uncertainties that could be material

- 15** There are three matters to report to date that could have a material impact on the financial statements, and require satisfactory resolution in order for me to give an unqualified opinion on the financial statements.
- 16** All three matters relate to the fixed assets balance. The first is that the accounts include 'surplus assets' in the Tangible Fixed Assets in the Balance Sheet and Note 20 which the SORP states should be measured at market value. Our testing indicates that some assets (most notably the York Theatre Royal) are not valued using this basis. The Theatre Royal's value in the accounts is £115,000, a value which dates back to at least 2006/07. Although some assets declared as surplus have been correctly revalued in 2008/09 at market value, there are several others that have not.
- 17** The second matter relates also to surplus assets, and is that the council has not applied depreciation to any surplus assets, contrary to the requirements of the SORP. We estimate that using the council's accounting policies depreciation on relevant assets would, at most, have been £470,000.
- 18** The third matter relates to the Council's Investment Properties, included in the Tangible Fixed Assets. Investment properties should be measured at market value, and should be categorised as assets that are not used to deliver a council service. Our testing identified that the Hebden Rise Adult Day Centre is included in the Asset Register at nil value but investigations confirm that the asset was sold before 2008/09 and it should be removed. Our review of the other Investment Properties highlights that there are many other properties with low values (some at nil value, and some at £1 or £5) that indicate that they are not valued at market value, although some Investment Properties have been revalued in the year at their market value.

Corrections needed to the financial statements

- 19** During our audit we have identified a number of trivial matters that officers have not yet amended in the financial statements, but have indicated they intend to amend.
- 20** Additionally there are a number of matters that we need to bring to the Council's attention, and for which amendments need to be made to the financial statements. These are detailed in Appendix 2 and 3 and summarised below.
- 21** The financial statements include prior period adjustments, where the 2007/08 comparators have been amended, for:
- pension fund asset valuations (£205,000 increase to the Pension Fund Liability); and
 - amendments to the fixed assets and their valuations, correcting errors identified in last years' financial statements (£156,000 decrease in fixed assets and £368,000 increase in Government Grants Deferred Account).
- 22** FRS3 requires that prior period adjustments are only made where they have a material impact on the financial statements. In my view the impact, individually, and collectively, of the changes made are not material, and they should not have been made. As these

Financial statements

adjustments were to the prior period comparators there is no impact on the stated financial position as at 31 March 2009.

- 23** However we note that by amending the prior year comparatives the year on year comparison is more accurate. We also note that the Council followed CIPFAs LAAP bulletin 81 which clearly indicated that prior period adjustments were required for some items without mentioning the need to consider the materiality of those items.
- 24** If prior period adjustments are made the SORP requires that the Statement of Total Recognised Gains and Losses (STRGL) should include a disclosure of the effect of the adjustment on the reserves. The Council's accounts do not include such a disclosure. If the prior period adjustments are not corrected, as set out in paragraphs 21 and 22 then the Council should include the required disclosure in the STRGL.
- 25** Over the past nine years the Council have included £15,000 each year as capital expenditure relating to the salaries of staff working at the joint equipment store. The total capitalised is £135,000. In our view these items are not capitalisable, and should be removed from the fixed asset balance.
- 26** The Council has a number of outstanding claims with HMRC for the repayment of VAT. These may realise the council up to £1.5m, and while repayment is not certain, it is probable. As such, under FRS12, the Council should include a disclosure note stating that they have a Contingent Asset. Officers have agreed to include this in Note 65 to the accounts.
- 27** The Council has included the Harewood Whin waste disposal site as an operational asset but discussions with the valuer indicate that this is, and has been valued as, a non-operational investment asset. Officers have agreed to amend the accounts to move the value from operational to non-operational assets.

Letter of representation

- 28** Before I issue my opinion, auditing standards require me to obtain appropriate written representations from you and management about your financial statements and governance arrangements. Appendix 4 contains the draft letter of representation I seek to obtain from you.

Key areas of judgement and audit risk

- 29** In planning my audit I identified specific risks and areas of judgement that I have considered as part of my audit. My findings are set out in Table 1.

Table 1 **Key areas of judgement and audit risk**

| Issue or risk | Finding |
|---|---|
| The Council will not accurately address the requirements of the SORP 2008. Although, experience suggests that all new items are | Our initial finding is that the council has addressed the requirements of the 2008 SORP with the exception of the inclusion |

| Issue or risk | Finding |
|---|--|
| addressed by the Council this risk is inherently present. | of the deferred asset, the prior period adjustments and the exclusion of the disclosure in the STRGL as set out in paragraphs 15-17. However we note that LAAP bulletin 81 incorrectly indicated that Councils should make some prior period adjustments without considering the need for materiality. |
| The Council's asset valuations (both fixed and current) will not be materially correctly stated, taking into account the impact of the economic and financial downturn. | Our work indicates that the impairments accounted for in 2008/09 are materially correct. |

Accounting practice and financial reporting

30 Table 2 contains the issues about the qualitative aspects of your financial reporting that I want to raise with you.

Table 2

| Issue or risk | Finding |
|---|---|
| The Council's note on related party transactions (note 70) specifically excludes disclosures relating to family/household members. | FRS8 specifically defines close family/ household members as being within the remit of 'related parties' who might be expected to have an influence. The Council's disclosure is not in line with FRS8. |
| The Council has disclosed at note 57 the employee emoluments. | <ul style="list-style-type: none"> • The Council did not retain detailed payroll evidence to support the disclosure in note 57. • Subsequently produced evidence suggests the disclosure is wrong and should be amended. |
| The disclosure of members' allowances includes the basic allowances but does not include the full range of expenses and allowances (for example including travel expenses). | Although this disclosure is consistent with the 2008 SORP, the SORP guidance notes suggest that Council's should disclose all expense payments to members, and in light of the heightened public interest in politician expenses, a more full disclosure may provide more clarity and transparency in future years. |

- 31** My predecessor's Annual Governance Report for 2007/08 highlighted a number of fundamental weaknesses with the Council's closedown arrangements, in particular the lack of a robust project planning approach, and the lack of comprehensive detailed working papers to support the entries in the financial statements. In addition he highlighted the deficient fixed asset register and the problems and delays in reconciling the register with the financial ledger and financial statements.
- 32** Since his report in September 2008 Council finance staff have prioritised the production of the financial statements, and we have worked closely with officers to provide guidance and assistance in improving the arrangements.
- 33** I am pleased to report that there has been good progress made in addressing the weaknesses from last year, and while there is still more work to do to reach the high standards achieved by other Councils, the Council is now better placed to achieve the higher standard than in previous years. In particular:
- The project management practices adopted led to the accounts being produced earlier this year, which meant that the version presented to the Audit & Governance Committee in June 2009 was more complete and accurate than previous years.
 - The working papers produced to support the financial statements have been to a better standard and are more comprehensive than previously. Improvements can still be made to the timing of production: working papers should be produced at the time that the accounts are being produced, so that the working papers are available at the end of June with the financial statements; and with the content: working papers should clearly reconcile with the financial statements, and provide clarity and explanation of the accounting treatment. However, the scale and nature of the problems we have encountered are less than last year.
 - The fixed asset register has been improved and was more easily reconciled to the financial ledger and the accounts. While there are still some entries in the register that need some investigation, as is highlighted by the issues reported elsewhere in this letter, these are now easier to identify and fewer than previously.
 - The quality of the financial statements presented for audit has generally been higher, although I remain concerned that the devolved financial management arrangements mean that the Council has not implemented a comprehensive quality assurance approach for the financial statements, whereby the Director of Resources is assured that the statements are materially correct before signing them.

Recommendation

R1 *Resolve the accounting treatment of the deferred asset and liability relating to the repayment of notional debt.*

R2 *Amend the accounts to remove £11.6m from Assets under Construction.*

| |
|---|
| R3 Amend the financial statements to remove the non-material prior period adjustments. |
| R4 If prior period adjustments are not amended, include the impact of the disclosed prior period adjustments at the foot of the STRGL. |
| R5 Value surplus assets and investment assets at market value. |
| R6 Depreciate surplus assets where this is required by SORP. |
| R7 Comply with the requirements of FRS8 in considering related parties and relevant transactions. |
| R8 Remove the £135,000 of salary costs included in the fixed asset balance. |
| R9 Include details of the outstanding VAT reclaims in a Contingent Asset note to the accounts. |
| R10 Retain all working papers to support all entries in the financial statements. |
| R11 Widen the disclosure of members' allowances to include all expenses and payments to members as per the SORP guidance notes. |
| R12 Produce working papers as the financial statements are being produced and ensure that they are all available by 30 June with the financial statements. |
| R13 Implement a comprehensive quality assurance approach so that officers responsible for producing the financial statements are assured that the statements are materially correct. |

Use of resources

I am required to consider how well the Council is managing and using its resources to deliver value for money and better and sustainable outcomes for local people, and give a scored use of resources judgement.

I am also required to conclude whether the Council put in place adequate corporate arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money (VFM) conclusion.

Use of resources judgements

- 34** In forming my scored use of resources judgements, I have used the methodology set out in the [use of resources framework](#). Judgements have been made for each key line of enquiry (KLOE) using the Audit Commission's current four point scale from 1 to 4, with 4 being the highest. Level 1 represents a failure to meet the minimum requirements at level 2.
- 35** I have also taken into account, where appropriate, findings from previous use of resources assessments (updating these for any changes or improvements) and any other relevant audit work.
- 36** The Council's use of resources theme scores are shown in Table 3 below. The key findings and conclusions for the three themes, and the underlying KLOE, are summarised below. I have issued a separate report detailing the findings, conclusions and recommendations, and this has been agreed with officers.

Table 3 Use of resources theme scores

| Use of resources theme | Scored judgement |
|------------------------|------------------|
| Managing finances | 2 |
| Governing the business | 2 |
| Managing resources | 2 |

Managing finances

- 37** The Council has a clear understanding of its costs, and the key drivers and pressures, both internally and externally. This has enabled the Council to deliver good quality services at costs which are amongst the lowest of unitary councils nationally. The Council makes use of benchmarking opportunities which it uses to identify areas of potential inefficiency. Despite the strong focus on managing costs, improvements have been made in a range of priority services in recent years. A review of adult care services included actions to reduce cost, but also delivered service improvements and took account of the growing demand for such services.

- 38** Financial planning is being developed and this is integrated with the Council's efficiency programme which seeks to achieve £15m of efficiency savings in 3 years. A balanced budget is set, and the level of member involvement in setting and agreeing the budget improved from previous years. The medium term financial strategy has a strong focus on efficiencies.
- 39** The previous years' pre-audit financial statements have had numerous issues with them, but the Council has set in place improved closedown arrangements including good project management arrangements and as a result many of the problems of previous years have not been repeated. However, as reported on page 7 we have identified material issues with the draft accounts this year. The Council needs to improve the accessibility of its information and has made progress late in 2008/09 and into 2009/10 to implement improvements.

Table 4 Managing finances scores

| Area | Score | Overall theme score |
|------------------------------|-------|---------------------|
| KLOE 1.1 Financial planning | 2 | Level 2 |
| KLOE 1.2 Understanding costs | 3 | |
| KLOE 1.3 Financial reporting | 2 | |

Governing the business key findings

- 40** The Council has developed a clear understanding of local communities' needs through extensive consultation and engagement with local people. This influences the approach to commissioning services for e.g. children and young people and older people, particularly those most vulnerable. The Council and its partners are also working to allocate a LAA delivery fund to voluntary sector and community groups to deliver projects according to their contribution to desired outcomes for local people.
- 41** The Council continues to improve data quality by implementing a data quality policy addressing the six data quality characteristics. Information provided to managers and members on a monthly and quarterly basis is fit for purpose in informing decisions. The arrangements have improved further in 2009/10 with the Council implementing in year monitoring and checking arrangements so that they know how accurate the data is before the year end audit checking.
- 42** The governance arrangements are good. There is a programme of member training, and a number of members have opted to have a PDP to manage their development. The Council's leadership maintains its focus on achieving their priorities by having joint monitor sessions 4 times per year (3 quarterly and 1 year-end). These take place over half a day and are attended by CMT and Executive Members.
- 43** The fraud investigation service has been effective in bringing successful prosecutions for external fraud during 2008/09 working with the Police and DWP which have been

Use of resources

well publicised in the local press. They exceeded their targets in 2008/09 for sanctions and successful prosecutions, and these increased by 15% on the previous year. Risk management has improved over recent years, and the information now collected and reported is more organised and more helpful in enabling officers and members to carry out their responsibilities. It is less clear how the council ensures that it identifies all risks to it (and its priorities) from the key partnerships.

Table 5 Governing the business scores

| Area | Score | Overall theme score |
|---|-------|---------------------|
| KLOE 2.1 Commissioning and procurement | 2 | Level 2 |
| KLOE 2.2 Data quality | 2 | |
| KLOE 2.3 Good governance | 2 | |
| KLOE 2.4 Risk management and internal control | 3 | |

Managing resources

- 44** The Council has an understanding of the natural resources it consumes and has developed a strategic approach to reduce consumption and its environmental impact. It has developed an internally-focused Environmental Sustainability Strategy and has embarked on a Carbon Management Programme, although the Council cannot yet fully demonstrate its impact. The Council calculated a baseline figure of its CO₂ emissions based on 2006/07 information which it has used to set targets and measure progress but it is unable to verify the accuracy of the data, and it includes some estimates relating to buildings where accurate readings were not available. The Council estimates that 400 tonnes of carbon were saved during 2008 through the opening of a purpose built Eco Depot, the installation of biomass boilers in a number of buildings and improved insulation, but is unable to accurately assess the impact of each project. Other projects are in progress which the Council anticipates will increase the saving to more than 2,400 tonnes by the end of 2010.
- 45** The Council has developed a strategic approach to asset management, which has had some positive impact, but is not consistently applied across the organisation. Delivery of ambitions for asset management is constrained by limited financial resources and a lack of a full understanding of how assets contribute to corporate priorities. This undermines the Council's ability to demonstrate value for money in asset management. It is improving the quality of information on its asset base as a step towards addressing its weak performance management of assets. Tight financial constraints on service-based budgets undermine corporate prioritisation and backlog maintenance is not being reduced. There are examples of asset transfer to local communities which have provided benefits. The Council is developing a more strategic approach to sharing assets with partners, to build on examples already in place.

Table 6 Managing resources scores

| Area | Score | Overall theme score |
|----------------------------|-------|---------------------|
| KLOE 3.1 Natural resources | 2 | Level 2 |
| KLOE 3.2 Asset management | 2 | |

Value for money conclusion

- 46** I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against criteria specified by the Audit Commission. From 2008/09, the Audit Commission will specify each year, which of the use of resources KLOE are the relevant criteria for the VFM conclusion at each type of audited body. My conclusions on each of the areas are set out in Table 7 below.
- 47** I intend to issue an unqualified conclusion stating that the Council had adequate arrangements to secure economy, efficiency and effectiveness in the use of resources. Appendix 1 contains my draft report.

Table 7 VFM criteria 2008/09

| VFM criteria | The Council has met requirements |
|---|----------------------------------|
| Financial planning and management | Yes |
| Understanding costs, performance and efficiencies | Yes |
| Financial reporting | Yes |
| Commissioning and procurement | Yes |
| Data quality | Yes |
| Good governance | Yes |
| Risk management and internal control | Yes |
| Natural resources | Yes |
| Asset management | Yes |

Appendix 1 – Independent auditor's report to Members of City of York Council

Opinion on the financial statements

I have audited the Council accounting statements and related notes of City of York Council for the year ended 31 March 2009 under the Audit Commission Act 1998. The accounting statements comprise the Income and Expenditure Account, the Statement of Movement on the General Fund Balance, the Balance Sheet, the Statement of Total Recognised Gains and Losses, the Cash Flow Statement, the Housing Revenue Account, the Statement of Movement on the Housing Revenue Account, the Collection Fund and the related notes. These accounting statements have been prepared under the accounting policies set out in the Statement of Accounting Policies.

This report is made solely to the members of City of York Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 49 of the Statement of Responsibilities of Auditors and of Audited Bodies prepared by the Audit Commission.

Respective responsibilities of the Director of Resources and auditor

The Director of Resources' responsibilities for preparing the financial statements in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2008 are set out in the Statement of Responsibilities for the Statement of Accounts.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the accounting statements present fairly, in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2008 the financial position of the Council and its income and expenditure for the year.

I review whether the governance statement reflects compliance with 'Delivering Good Governance in Local Government: A Framework' published by CIPFA/SOLACE in June 2007. I report if it does not comply with proper practices specified by CIPFA/SOLACE or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered, whether the governance statement covers all risks and controls. Neither am I required to form an opinion on the effectiveness of the Council's corporate governance procedures or its risk and control procedures

I read other information published with the accounting statements, and consider whether it is consistent with the audited accounting statements. This other information comprises the Explanatory Foreword. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the accounting statements. My responsibilities do not extend to any other information.

Basis of audit opinion

I conducted my audit in accordance with the Audit Commission Act 1998, the Code of Audit Practice issued by the Audit Commission and International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the accounting statements and related notes. It also includes an assessment of the significant estimates and judgments made by the Council in the preparation of the accounting statements and related notes, and of whether the accounting policies are appropriate to the Council's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the accounting statements and related notes are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the accounting statements and related notes.

Opinion

In my opinion the Council financial statements present fairly, in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2008, the financial position of the Council as at 31 March 2009 and its income and expenditure for the year then ended.

Conclusion on arrangements for securing economy, efficiency and effectiveness in the use of resources

Council's Responsibilities

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance and regularly to review the adequacy and effectiveness of these arrangements.

Auditor's Responsibilities

I am required by the Audit Commission Act 1998 to be satisfied that proper arrangements have been made by the Council for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion in relation to proper arrangements, having regard to relevant criteria specified by the Audit Commission for principal local authorities. I report if significant matters have come to my attention

Appendix 1 – Independent auditor's report to members of City of York Council

which prevent me from concluding that the Council has made such proper arrangements. I am not required to consider, nor have I considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Conclusion

I have undertaken my audit in accordance with the Code of Audit Practice and having regard to the criteria for principal local authorities specified by the Audit Commission and published in May 2008 and updated in February 2009, and the supporting guidance, I am satisfied that, in all significant respects, City of York Council made proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2009.

Certificate

I certify that I have completed the audit of the accounts in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Steve Nicklin
District Auditor
Nickalls House
Metro Centre
Gateshead
NE11 9NH
September 2009

Appendix 2 – Adjusted amendments to the accounts

The following misstatements were identified during the course of my audit and the financial statements have been adjusted by management. I bring them to your attention to assist you in fulfilling your governance responsibilities.

Table 8

| Adjusted misstatements | Nature of Adjustment | Income and Expenditure Account | | Balance Sheet | |
|---|--|--------------------------------|---------|---------------|---------|
| | | Dr £ | Cr £ | Dr £ | Cr £ |
| Deferred assets are disclosed in the balance sheet. This category is no longer permitted in the SORP | Officers have agreed to remove the deferred asset and corresponding deferred liability | £1.2m | £1.2m | £19.6m | £19.6m |
| Assets under construction include £11.6m that is double-counted, also being included in operational assets | Officers have agreed to remove the value from the assets under construction. | NA | NA | £11.6m | £11.6m |
| Harewood Whin waste disposal site is included in the operational fixed assets but should be a non-operational asset | Officers have agreed to move Harewood Whin from operational assets to non-operational assets | NA | NA | £2.75m | £2.75m |
| The 2008 SORP requires an additional disclosure in the STRGL for the effect of any PPA on reserves. The Council has not | Officers have agreed to include the required disclosure | NA | NA | NA | NA |

Appendix 2 – Adjusted amendments to the accounts

| | | Income and Expenditure Account | | Balance Sheet | |
|---|---|--------------------------------|----|---------------|----|
| made such a disclosure. | | | | | |
| The Council has a contingent asset relating to the outstanding VAT reclaims | Officers have agreed to include a contingent asset note | NA | NA | NA | NA |

Appendix 3 – Unadjusted misstatements in the accounts

The following misstatements were identified during the course of my audit and the financial statements have not been adjusted by management. I bring them to your attention to assist you in fulfilling your governance responsibilities. If you decide not to do so, please tell us why in the representation letter. If you believe the effect of the uncorrected errors, individually and collectively, is immaterial, please reflect this in the representation letter. Please attach a schedule of the uncorrected errors to the representation letter.

Table 9

| Description of error | Accounts effected | Value of error |
|--|-------------------------------------|----------------|
| Adjustments have been made to the prior year comparators for fixed asset errors in previous years that are not material, and hence should not have been made under FRS3. | Tangible fixed assets | £156k |
| | Government grants deferred accounts | £368k |
| | Revaluation reserve | £487k |
| | Capital adjustment account | £275k |
| | Income & expenditure account | £368k |
| | STRGL | £212k |
| Adjustments have been made to the prior year comparators for pension fund accounting changes that are not material, and hence should not have been made under FRS3. | Income & expenditure account | £14k |
| | STRGL | £205k |
| | Pension liability | £205k |
| Not all surplus assets and Investment Properties have been included at market value | Balance sheet | Uncertain |
| Fixed asset balances include £135,000 of staff salaries that are not capitalisable | Balance sheet | £135k |

Appendix 4 – Draft letter of representation

To:

Steve Nicklin
District Auditor
Audit Commission
Nickalls House
Metro Centre
Gateshead
NE11 9NH

City of York Council - Audit for the year ended 31 March 2009

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other officers of City of York Council, the following representations given to you in connection with your audit of the Council's financial statements for the year ended 2009. All representations cover the Council's accounts included within the financial statements.

Compliance with the statutory authorities

I acknowledge my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Code of Practice for Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice which presents fairly the financial position and financial performance of the Council and for making accurate representations to you.

Uncorrected misstatements

I confirm that I believe that the effects of the uncorrected financial statements misstatements listed in the attached schedule are not material to the financial statements, either individually or in aggregate. These misstatements have been discussed with those charged with governance within the Council and the reasons for not correcting these items are as follows:

- reason 1 etc;
- reason 2
-

Supporting records

All the accounting records have been made available to you for the purpose of your audit and all the transactions undertaken by the Council have been properly reflected and recorded in the accounting records. All other records and related information, including minutes of all Council meetings, have been made available to you.

Irregularities

I acknowledge my responsibility for the design and implementation of internal control systems to prevent and detect fraud or error.

There have been no:

- irregularities involving management or employees who have significant roles in the system of internal accounting control;
- irregularities involving other employees that could have a material effect on the financial statements; or
- communications from regulatory agencies concerning non-compliance with, or deficiencies on, financial reporting practices which could have a material effect on the financial statements.
- I also confirm that I have disclosed:
 - my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements; and
 - my knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others.

Law, regulations, contractual arrangements and codes of practice

There are no instances of non-compliance with laws, regulations and codes of practice, likely to have a significant effect on the finances or operations of the Council.

The Council has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance. There has been no non-compliance with requirements of regulatory authorities that could have a material effect on the financial statements in the event of non-compliance.

Fair Values

I confirm the reasonableness of the significant assumptions within the financial statements. For the assumptions, I confirm:

- the appropriateness of the measurement method;
- the basis used by management to overcome the presumption under the financial reporting framework;
- the completeness and appropriateness under the financial reporting framework; and

Appendix 4 – Draft letter of representation

- if subsequent events do not require adjustment to the fair value measurement.

Auditors should ensure that this covers all areas within the financial statements on which they seek to gain representation.

Assets

The following have been properly recorded and, where appropriate, adequately disclosed in the financial statements:

- losses arising from sale and purchase commitments;
- agreements and options to buy back assets previously sold; and
- assets pledged as collateral.

Compensating arrangements

There are no formal or informal compensating balancing arrangements with any of our cash and investment accounts. There are no undisclosed credit arrangements.

Contingent liabilities

There are no other contingent liabilities, other than those that have been properly recorded and disclosed in the financial statements. In particular:

- there is no significant pending or threatened litigation, other than those already disclosed in the financial statements;
- there are no material commitments or contractual issues, other than those already disclosed in the financial statements; and
- no financial guarantees have been given to third parties.

Related party transactions

I confirm the completeness of the information disclosed regarding the identification of related parties.

The identity of, and balances and transactions with, related parties have been properly recorded and where appropriate, adequately disclosed in the financial statements

Post balance sheet events

Since the date of approval of the financial statements by General Purposes Committee, no additional significant post balance sheet events that have occurred which would require additional adjustment or disclosure in the financial statements.

The council has no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the financial statements.

Specific representations

We confirm that the fixed asset valuations included in the balance sheet have been made on the correct basis, and are up to date and accurate.

Signed on behalf of City of York Council:

I confirm that the this letter has been discussed and agreed by the Council on [insert date]

Signed

Name

Position

Date

Appendix 5 – Action Plan

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|---|---|--|--|--------|--|--------------|
| Annual Governance Report 2008/09 - Recommendations | | | | | | |
| 11 | R1 Resolve the accounting treatment of the deferred asset and liability relating to the repayment of notional debt. | 3 | Technical Finance Manager, Strategic Finance | Yes | The accounting treatment is being considered. | 30 Sept 2009 |
| 11 | R2 Amend the accounts to remove £11.6m from Assets under Construction | 3 | Technical Finance Manager, Strategic Finance | Yes | Amendment will be made | 30 Sept 2009 |
| 11 | R3 Amend the financial statements to remove the non-material prior period adjustments | 2 | Technical Finance Manager, Strategic Finance | No | Amendments not being made. Officers consider the disclosed position to be more comparative and more transparent. | - |
| 11 | R4 If prior period adjustments are not amended, include the impact of the disclosed prior period adjustments at the foot of the | 2 | Technical Finance Manager, Strategic Finance | Yes | Amendment will be made | 30 Sept 2009 |

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|----------|--|--|--|--------|---|--------------|
| | STRGL. | | | | | |
| 11 | R5 Value surplus assets and investment assets at market value | 3 | Technical Finance Manager, Strategic Finance | Yes | Work is ongoing to assess the impact on the 2008/09 accounts. | 30 Sept 2009 |
| 12 | R6 Depreciate surplus assets where this is required by SORP | 2 | Technical Finance Manager, Strategic Finance | Yes | Surplus assets should be valued each year at 31st March meaning that depreciation is not required. Work is ongoing to assess the impact of surplus assets that have not been revalued in 2008/09. | 30 Sept 2009 |
| 12 | R7 Comply with the requirements of FRS8 in considering related parties and relevant transactions | 3 | Technical Finance Manager, Strategic Finance | Yes | CYC comply with FRS8 as laid down in the SORP Guidance notes. Amendment will be made to remove second paragraph of note 70 to make it | 30 Sept 2009 |

Appendix 5 – Action Plan

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|----------|--|--|--|--------|--|-----------------------------|
| | | | | | clearer as to what is disclosed. Amount owed / owing to be included. | |
| 12 | R8 Remove the £135,000 of salary costs included in the fixed asset balance. | 2 | Head of HASS Finance | Yes | Salary will be removed from capital to revenue in 2009/10. | 30 June 2010 |
| 12 | R9 Include details of the outstanding VAT reclaims in a Contingent Asset note to the accounts. | 2 | Finance Manager, Strategic Finance | Yes | VAT wording to be added within Contingent Asset note | 30 Sept 2009 |
| 12 | R10 Retain all working papers to support all entries in the financial statements | 2 | Technical Finance Manager, Strategic Finance | Yes | Note 57 will be amended to reflect the correct disclosure. Agree recommendation relating to the one working paper where an issue was identified. | 30 Sept 2009 & 30 June 2010 |
| 12 | R11 Consider widening the disclosure of members' allowances to include all expenses | 1 | Technical Finance Manager, Strategic | Yes | Will be considered for the 2009/10 | 30 June |

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|----------|---|--|--|--------|---|--------------|
| | and payments to members as per the SORP guidance notes | | Finance | | accounts | 2010 |
| 12 | R12 Produce working papers as the financial statements are being produced and ensure that they are all available by 30 June with the financial statements | 3 | Technical Finance Manager, Strategic Finance | Yes | Majority of working papers are produced in a timely manner but process will be reviewed in 2009/10. | 30 June 2010 |
| 12 | R13 Implement a comprehensive quality assurance approach so that officers responsible for producing the financial statements are assured that the statements are materially correct | 2 | Technical Finance Manager, Strategic Finance | Yes | Agree to further embed internal QA in 2009/10 | 30 June 2010 |

The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, auditing the £200 billion spent by 11,000 local public bodies.

As a force for improvement, we work in partnership to assess local public services and make practical recommendations for promoting a better quality of life for local people.

Copies of this report

If you require further copies of this report, or a copy in large print, in Braille, on tape, or in a language other than English, please call 0844 798 7070.

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For further information on the work of the Commission please contact:

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www.audit-commission.gov.uk

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Annex B

Schedule of Changes to the Pre-Audit Statement of Accounts 2008/09

The following misstatements have been identified during the audit (at Annex A – the Annual Governance Report, Appendix 2) and the financial statements are to be adjusted accordingly.

| Description of Misstatement | Core Statement Effected | Pre-Audit St. of Accts | Variation | Revised St. of Accts |
|--|--|------------------------|-----------|---|
| Deferred assets / Deferred Liabilities are no longer disclosed in accordance with changes in accounting regulation | Balance Sheet | £19.6m | -£19.6m | Deferred assets / deferred Liabilities to be removed from the balance sheet |
| A contingent asset should be disclosed for the outstanding VAT reclaims | Disclosure in the Notes | 0 | 0 | £1.5m in disclosure note |
| Fixed Asset values removed for "assets under construction" when the assets are revalued in 2008/09 | Balance Sheet, Income & Expenditure A/C, Statement of Movement in the General Fund Balance and Disclosure Note | £11.6m | -£11.6m | Fixed Asset Value in the Balance sheet will fall |
| Fixed Asset category for Harewood Whin Waste Disposal site changed from Operational to Non-Operational | Balance Sheet | £2.7m | £2.7m | Change in asset category only |
| Additional disclosure to be added to the STRGL for the effect of Prior period Adjustments | Statement of Recognised Gains & Losses (STRGL) | £589.349m | £0.007m | Additional disclosure to the STRGL |

The following misstatements have been identified during the audit (at Annex A – the Annual Governance Report, Appendix 3), however the financial statements **have not been adjusted** as the unadjusted amendments are considered to be to be immaterial, both individually and in aggregate, to the financial statements as a whole.

| Description of Misstatement | Core Statement Effected | Variation | No Adjustment to the Financial Statement |
|--|--------------------------|-----------|--|
| Prior Period Adjustments should not have been made to the Financial Statements with regards to Fixed assets and Government Grants Deferred in line with FRS 3. | Income & Expenditure A/C | -£368k | It is more transparent for the reader to be able to see the adjustments relate to the prior year |
| | SMOGFB | £368k | |
| | STRGL | -£212k | |
| | Balance Sheet | -£312k | |
| Prior period Adjustments should not have been made to the Financial Statements with regards to Pension Liabilities in line with FRS 3 | Income & Expenditure A/C | £14k | Adjustment is in accordance to Local Authority Accounting Bulleting No. 81 produced by CIPFA |
| | SMOGFB | -£14k | |
| | STRGL | £205k | |
| | Balance Sheet | 0 | |
| Surplus Assets and Investment Properties have not all been included in the Financial Statements at Market Value | Balance Sheet | TBA | Work is currently ongoing by the Audit Commission |
| Revenue expenditure of £135k relating to salaries that have been capitalised over 10 years should not be included in Fixed assets | Balance Sheet | £135k | The adjustment is not material and therefore an amendment will be made in 2009/10 |

The following adjustments have been made to the Pre- Audit Statement of Accounts during the audit but as a result of their trivial nature, they have not been included in the Annual Governance Report. For completeness, the table below details these adjustments to the Pre-Audit statement of Accounts.

| Description of Trivial Adjustment | Core Statement Effected | Original St. of Accts | Variation | Revised St. of Accts |
|---|--------------------------------------|-----------------------|-----------|---|
| Note 1 - Related Comparative Figures 2007/08 adjust wording - Surplus/Deficit in Year b/fwd | Disclosure Note 1 | - | - | Impact on Surplus Deficit in the Year b/fwd |
| Finance Lease interest to be included in the Cash Flow Statement and Note 38 | Cash Flow Statement, Disclosure Note | -£1,117k | -£105k | -£1,222k |
| Sale of Fixed Assets reduced in the cash Flow Statement and Not 38 | Cash Flow Statement, Disclosure Note | -£2,528k | £373k | -£2,155k |
| The Annual Governance Statement title states Audit & Governance Statement | Annual Governance Statement | - | - | Annual Governance Statement |
| Change to wording in Statement of Accounting Policies Page 19, No. 23 and adjust transposed figure of £0.517m | Statement of Accounting Policies | - | - | Wording amended and figure adjusted to £0.571m |
| Changing to wording in Statement of Accounting Policies No.15, Page 16, paragraph 2 - soft loans | Statement of Accounting Policies | - | - | Wording amended to clarify CYC have no soft loans |
| Note 70 - Related Party Transaction adjust wording to clarify compliance with FRS 8 | Disclosure Note 70 | - | - | Paragraph 2 deleted to clarify compliance to FRS 8 and state any amounts owing/owed in year |
| Loans Outstanding – Note 27 – interest rates disclosed range between 3.7% and 4.875% for 2007/08 and 2008/09 | Disclosure Note 27 | - | - | Interest rates changed to range for 2008/09 only |
| Long-Term Debtors – Note 23 – Expenditure & Income during the year to be revised for Credit / Debits | Disclosure Note 23 | - | - | Credit/Debit signs to be consistent for Expenditure & Income |
| Employees' Emoluments – Note 57 – Detail to produce note was not retained | Disclosure Note 57 | - | - | Note revised to reflect the detail produced by subsequent report |



Audit and Governance Committee

21 September 2009

Report of the Director of Resources

Use of Resources 2008/09: Audit Commission Report

Summary

1. This paper introduces a report (see annex) prepared by the Audit Commission summarising the findings from the Use of Resources Assessment relating to the financial year 2008/09 which is now operating within the Comprehensive Area Assessment (CAA) framework. This is one part of a scored auditor's assessment with the Organisational Assessment aspect of the CAA process.

Background

2. In the first year of CAA the Audit Commission has carried out its annual review of the council's arrangements for use of its resources. This focussed on a new suite of themes with the following overall scores:

| KLOE | Score | Theme score |
|--|----------------------|-------------|
| Managing Finances | | |
| 1.1 Financial planning | 2 | 2 |
| 1.2 Understanding costs & performance | 3 | |
| 1.3 Reporting financial performance | 2 | |
| Governing the Business | | |
| 2.1 Commissioning & procurement | 2 | 2 |
| 2.2 Data quality | 2 | |
| 2.3 Good governance | 2 | |
| 2.4 Risk management & internal control | 3 | |
| Managing Resources | | |
| 3.1 Natural resources | 2 | 2 |
| 3.2 Asset management | 2 | |
| | Overall Score | 2 |

3. In summary the report concludes that the council performed adequately in its use of resources in 2008/09, based on an overall score of **2**. The overall score is not comparable with the previous year's score of 3 as it took place under a different assessment process which is explained in the report.
4. The report states that 'There are elements of strong performance across a number of the use of resources Key Lines of Enquiry (KLOE), in particular the Council's provision of value for money services, its risk management arrangements and elements of its commissioning of services'.
5. Ongoing improvement actions will continue to be monitored, where appropriate, through the council's Improvement Plan and Corporate Strategy, and by the Strategic Officer Governance Group chaired by the Director of Resources as part of the improvement work set down within the 2008/09 Annual Governance Statement.

Consultation

6. The report and action plan has been discussed and agreed by officers.

Options

7. Not relevant for the purpose of the report.

Analysis

8. Not relevant for the purpose of the report.

Corporate Priorities

9. This report contributes to the overall effectiveness of the council's governance and assurance arrangements and the achievement of the corporate priority 'Effective Organisation'.

Implications

10.
 - **Financial** – there are no financial implications to this report.
 - **Human Resources (HR)** – there are no HR implications to this report.
 - **Equalities** - there are no equalities implications to this report.
 - **Legal** - there are no legal implications to this report
 - **Crime and Disorder** – there are no crime and disorder implications to this report.
 - **Information Technology (IT)** - there are no IT implications to this report.

- **Property** - there are no property implications to this report.

Risk Management

11. By not responding to the content of this report, the council will fail to properly comply with legislative and best practice requirements, and its Use of Resources score in current and future CAA assessments could be adversely affected.

Recommendations

12. Members of the Audit and Governance Committee are asked to note the report and the progress the council is making in addressing the areas for improvement in this and previous reports.

Reason

To ensure the maintenance of an effective internal control environment at the council.

Contact Details

Author:

Pauline Stuchfield
Assistant Director (Customer Service
& Governance)
Telephone: 01904 551706

Chief Officer Responsible for the report:

Ian Floyd
Director of Resources
Telephone: 01904 551100

Report Approved

Date 11 September 2009

Specialist Implications Officers

Not applicable

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

See below

Annex

Audit Commission Use of Resources Report 2008/09

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Use of Resources Report

City of York Council

Audit 2008/09

Date

DRAFT

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DRAFT

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
 - any third party.
-

Summary

This report summarises the key findings from our assessment of how City of York Council is managing and using its resources to deliver value for money and better and sustainable outcomes for local people.

- 1 The Audit Commission has assessed the Council's arrangements overall at level 2 (performing adequately).
- 2 There are elements of strong performance across a number of the use of resources Key Lines of Enquiry (KLOE), in particular the Council's provision of value for money services, its risk management arrangements and elements of its commissioning of services.
- 3 The Council has embarked on a challenging programme to deliver £15m efficiency savings over a three year period. The successful delivery of this programme should have a positive impact on the Council's future use of resources.
- 4 Our detailed findings against each of the themes and KLOEs are set out from page 6.

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Introduction

- 5 This report sets out my conclusions on how well City of York Council (the Council) is managing and using its resources to deliver value for money and better and sustainable outcomes for local people and give scored use of resources theme judgements.
- 6 In forming my scored theme judgements, I have followed the methodology set out in the [use of resources framework: overall approach and key lines of enquiry \(KLOE\) document](#) and the use of resources [auditor guidance](#). For each of the specific risks identified in relation to our use of resources work, which were set out in our audit plan, we considered the arrangements put in place by the Council to mitigate the risk and planned our work accordingly.

Use of resources framework

- 7 From 2008/09, the new use of resources assessment forms part of the [Comprehensive Area Assessment \(CAA\)](#) and comprises three themes that focus on:
- sound and strategic financial management;
 - strategic commissioning and good governance; and
 - the management of natural resources, assets and people.
- 8 The scores for each theme are based on the scores assessed by me on underlying KLOE. The KLOE are generic and applicable equally to all organisations subject to use of resources judgements under CAA. This promotes consistency, demonstrating all organisations within a CAA area are treated in the same way, and to the same standards.
- 9 The Commission specifies in its [annual work programme and fees document](#), which KLOE are assessed each year.
- 10 Judgements have been made for each KLOE using the Commission's current four point scale from 1 to 4, with 4 being the highest, please see table one. Level 1 represents a failure to meet the minimum requirements at level 2.

Introduction

Table 1 **Levels of performance**

| | |
|----------------|---|
| Level 1 | Does not meet minimum requirements – performs poorly |
| Level 2 | Meeting minimum requirements – performs adequately |
| Level 3 | Exceeds minimum requirements – performs well |
| Level 4 | Significantly exceeds minimum requirements – performs excellently |

Source: [use of resources framework: overall approach and KLOE document](#)

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Use of resources judgements

Scored judgements

11 The Council's use of resources theme scores are shown in table 2. In setting the context for the Council's scores this year it is important to highlight two important factors:

- The focus of use of resources is now more on outputs and outcomes rather than processes, and is more strategic than detailed. As a result the standard required to demonstrate level three performance has been raised, and focuses on the outputs and outcomes that demonstrate effective arrangements which have the intended impact.
- The Council is progressing a number of improvements and initiatives which are designed to deliver improvements in a number of areas in future years.

Table 2 Use of resources theme scores

| Use of resources theme | Scored judgement |
|--|------------------|
| Managing finances How effectively does the organisation manage its finances to deliver value for money? | Level 2 |
| Governing the business How well does the organisation govern itself and commission services that provide value for money and deliver better outcomes for local people? | Level 2 |
| Managing resources How well does the organisation manage its natural resources, physical assets and people to meet current and future needs and deliver value for money? | Level 2 |

Use of resources judgements

Managing finances

Table 3 Managing finances - KLOE scores

| KLOE | Score | Overall theme score |
|---|-------|---------------------|
| 1.1 Financial planning | 2 | Level 2 |
| 1.2 Understanding costs and performance | 3 | |
| 1.3 Reporting financial performance | 2 | |

Financial planning

- 12** I have assessed the Council's financial planning arrangements at level 2, because they meet the minimum standards expected. There are elements of stronger performance within the planning approaches, but further improvement is needed to allow me to assess financial planning as 'performing well'.
- 13** Financial and corporate planning processes are partially integrated. Savings proposals are considered in terms of their impact on priorities, and reports to Council include an analysis of resource utilisation compared with priorities. The focus of financial planning has largely been on making savings, albeit ones that don't jeopardise the achievement of service priorities, rather than focusing on the expenditure needed to fully fund the service priority improvements. The priorities for funding have been subject to significant debate in previous years, and the redirection of funding to the Easy@york project has contributed to efficiency savings. <mailto:>The Council's new efficiency programme should enable it to fully integrate and deliver service improvements and efficiencies across all services.
- 14** Clearer links need to be made to the risks of not achieving corporate and service priorities in relation to the medium term financial strategy (MTFS), although upcoming developments are actively considered and contingencies built in. Income charging is integral to the annual savings identification process, but closer and more explicit links need to be made to the processes for capital, IT and human resources planning that are run in parallel to the medium term and annual financial planning processes.
- 15** A comprehensive, balanced and realistic budget is set, supported by challenging but realistic savings plans scrutinised by Members. The Council has recently moved to make savings more corporate than directorate focused by appointing an efficiency partner that has helped to identify required levels of savings over the medium term, and therefore had a direct input to the budget planning process from 2009/10. The £15m savings required over the next 3 years are a direct result of the Council's awareness of its resource shortfalls over the medium term, and the need to maintain a sound financial standing.

- 16 The medium term financial strategy itself is regularly updated and reflects the Council's key strategic priorities, and the efficiency review now implemented is intended to challenge resource use and explore alternative ways to deliver priorities.
- 17 The Council has been assessing its policies and strategies in line with the equalities legislation since 2007/08 by undertaking equalities impact assessments. In terms of financial planning, the Council has developed an Engagement Strategy and an engagement calendar that includes local improvement scheme budget consultation in September and postal and on line surveys as well as workshops with stakeholders as part of its wider budget consultation in December. In 2008/09 the surveys were responded to by 8% of residents, and the consultation led to specific budget decisions being made such as the increase in the cost of non resident parking permits, previously thought to be unpopular.
- 18 The Council has reviewed its Treasury Management strategy in light of the collapse of the Icelandic banks, and has taken into account CIPFA guidance. The Council did have investments in Icelandic banks but had ended these investments prior to the credit ratings being downgraded. Consequently it was not exposed when the banks collapsed.
- 19 The Council has a well understood financial governance structure with clear lines of reporting and development of the financial plans from directorate through to full Council. Individual responsibilities are clearly set out in the Constitution, and the Financial Regulations and Scheme of Delegation provide the framework around these responsibilities. Some targeted training has been provided to officers and members, and lengthy debates have been held by Council in relation to the budget proposals in recent years, although these would benefit from more constructive scrutiny and challenge.

Understanding costs and performance and achieving efficiencies

- 20 The Council has a clear understanding of its costs, and the key drivers and pressures, both internally and externally. A strong focus on cost and performance has enabled the Council to deliver good quality services at the lowest spend per head and the third lowest Band D Council Tax rate of unitary councils nationally.
- 21 The Council makes use of numerous benchmarking opportunities which it uses to identify areas of potential inefficiency. Despite the strong focus on managing costs, improvements have been made in a range of priority services in recent years, and high performance in children's services sustained. A review of adult care services included actions to reduce cost, but also delivered service improvements and took account of the growing demand for services.
- 22 Successful action has also been taken to address corporate issues, such as reducing sickness absence costs across the Council. Whole life costing techniques are applied to major projects, such as the planned move to new office accommodation, which has also included an environmental assessment. Financial monitoring now reported to members with service performance management information but the links between these two areas need to be made more explicit to enable a more informed debate on how costs contribute to service delivery outcomes. This approach is being developed to cover partnership working.

Use of resources judgements

- 23** The Council is starting to make better use of the cost information at its disposal to inform decision making. This applies to routine operational decisions which have resulted in gradual improvements in the ratio of costs to outcomes in a number of areas. And it applies equally to major strategic decisions, such as those relating to the development of new office accommodation. This approach extends to partnership working where partners have made decisions on bids for allocation of the LAA delivery fund based on alignment with priorities and the scale of potential impact.
- 24** There are a number of examples of how the Council has worked in partnership to improve efficiency whilst at the same time considering wider social and environmental impacts, with an increasing emphasis on narrowing the equalities gap which exists in some parts of the city. The Council's Sustainable Procurement Strategy takes account of environmental and social issues as well as the financial impact and some positive outcomes have been achieved.
- 25** The tight financial constraints within which the Council operates requires the setting of challenging efficiency targets, and the Council has a track record of achieving them with efficiency targets for each of the three years to 2007/08 being exceeded and over £2m cash releasing savings measured by NI 179 being achieved in 2008/09. There is a clear focus on priorities, as evidenced by the easy@york programme. This programme is making innovative use of new technology and has incorporated a range of reviews over a number of years which has resulted in efficiency savings and improved access to services. The Council has worked with a private sector partner to develop an ambitious efficiency programme for the future which aims to make efficiency savings of £15m over the next three years through fundamental service redesign.

Reporting financial information

- 26** Overall the Council has adequate financial monitoring systems in place, although in 2008/09 monitoring has been more frequent and effective at the directorate level than at the corporate level. Improvements have been made since 2007/08, particularly with regards to the directorate level monitoring and the level of corporate scrutiny on the monitoring information. This has contributed to the 2008/09 outturn being in line with the budget and the projected position through the year.
- 27** The Council is developing a revised financial reporting framework, and had started to implement some of this before the end of 2008/09. Further improvements are being implemented in 2009/10 and we will assess the impact of these in next years' Use of Resources assessment. The continued improvements should help the Council cope with the anticipated pressures of faster accounts closure, the timetable adopted in 2008/09 and closure of the accounts meant that monitoring did not start until July 2008 in most directorates.
- 28** Members did not receive budget monitoring information until September 2008, and reports were concentrated in the period to January 2009 before a final report was presented in June 2009.
- 29** The financial reporting within directorates is primarily on a monthly basis, although only one directorate has a formal budget monitoring timetable and there are variations in approach. Above directorate level, monitoring is almost exclusively based on

projections to the year end, and although there is no set methodology for producing these projections, most are based on prior year or prevailing trends and known upcoming developments. All variances over £50,000 are reported above the directorate level (where more minor variances might be looked at for performance management purposes), making these more formal reports lengthy, and potentially promoting more focus on minor issues. Our work in previous years has shown that information provided is sufficient for action to be taken to mitigate any potential impact on service delivery where overspends are identified. Due to the way in which projections are used in financial monitoring it is difficult to identify a clear trail between internally reported results and those reported externally in the financial statements, although the statements do contain a comparison of budget to outturn at a summary level in the foreword.

- 30** Although financial and non financial information is reported together in a single report, and there are clear explanations in the reports to explain the two sets of data, the linkages between financial and non-financial data are currently not made in a clear and consistent way.
- 31** The financial statements submitted for audit in 2008/09 have been produced using a more structured and project managed approach than last year, and the accounts were submitted to members on time. The working paper trail has improved from last year.
- 32** The Council has made some progress in improving the accessibility of its publicly available documents, and has acknowledged that further work is needed to assess and meet the needs of the diverse local community. The Council's web site does contain information on different accessible versions of documents, including foreign language translation and recent improvements have been made to the ease of locating these.

Governing the business

Table 4 Governing the business - KLOE scores

| KLOE | Score | Overall theme score |
|--|-------|---------------------|
| 2.1 Commissioning and procurement | 2 | Level 2 |
| 2.2 Data quality | 2 | |
| 2.3 Good governance | 2 | |
| 2.4 Risk management and internal control | 3 | |

Commissioning and procurement

- 33** The Council has developed a clear understanding of the needs of local communities through extensive consultation and engagement in the development of the Sustainable Community Strategy. This is also informed by further analysis relating to economic

Use of resources judgements

development and the Joint Strategic Needs Assessment carried out in partnership with the Primary Care Trust (PCT). This is influencing the approach to commissioning services, particularly those most vulnerable, and takes account of future needs.

- 34** There are examples of how users have been engaged in commissioning services and how their views have had an influence, particularly in respect of young people, people with disabilities and older people. User engagement linked to the Supporting People Programme has resulted in the commissioning of a handypersons service and a new advice and information service for older people. Communities are involved in agreeing local priorities for improvement through a network of effective Ward Committees which have developed neighbourhood action plans. Community engagement has also had an impact on the design of corporate projects such as the new office accommodation project and the easy@york project to ensure services are designed in a way to maximise access.
- 35** The Council monitors service satisfaction and takes account of feedback from users and partners in identifying areas for improvement and prioritising services for review, and is making good use of technology to redesign services and improve efficiency. The easy@york programme has improved access to services and delivered £404,000 in cashable efficiency savings over the last three years through business process redesign and the use of technology.
- 36** The Council is continuing to develop its web site as a means of direct access to services and is seeking to deliver further service improvements and efficiencies through initiatives such as extending mobile working. There are some examples of externally procured services, such as managed network services, fleet management and elements of home care, and some shared services. The easy@york programme is being integrated with a major Efficiency Review programme which aims to deliver £15m savings over the next three years through a fundamental redesign of a number of key services. This is driving the Council towards a more mixed economy of service delivery.
- 37** The Council has a good understanding of local supply markets and is working with partners to develop them. It is supporting adult care providers in the move towards more personalised services and in developing the capacity to meet an increasing demand for services. In addition to general support and advice to suppliers on how to tender for Council business, the Council has provided specific support to local businesses linked to the economic downturn. This has helped to protect local jobs as well as minimising the risk to Council services due to the potential failure of local suppliers.
- 38** The Council procures over £14m of services each year from the voluntary sector and has recently reviewed commissioning to ensure a sustained focus on priorities and value for money. It is also working with the voluntary sector and others to plan for changes in demand for services, such as the anticipated increase in demand for elderly care services. The Council has well established processes for tender evaluation. Major tenders are evaluated using a CIPFA model which balances cost and quality, with evaluation criteria published in advance. The process includes a clear focus on environmental sustainability and the equalities agenda. The effectiveness of existing framework contracts is undermined by limited information on the extent of 'off-contract spend', although this is to be addressed through the introduction of new

financial systems. The Sustainable Procurement Strategy is delivering environmental and social benefits as well as financial savings, although the Council is unable to fully quantify the impact.

Data quality

- 39** There is a robust corporate framework to oversee data quality (DQ). The profile of DQ issues has been raised through the nomination of a Chief Officer as DQ champion and the inclusion of DQ as a key project within the Council's Improvement Plan. A policy has been adopted which sets out standards for accuracy, validity, timeliness and accessibility of data. It includes a matrix to allow a scored assessment of each indicator against the standards and identify actions to mitigate the risks of data being flawed. This assessment is in progress, starting with those priority indicators included in the Local Area Agreement (LAA), and is informing a risk-based approach to internal audit checks of DQ.
- 40** The policy provides guidance and toolkits to support improvements in data collection and is translated into action through a Council-wide Performance Officer Group (POG) which champions DQ within services and provides an ongoing challenge to the accuracy of data. The Audit & Governance Committee receives reports on the effectiveness of arrangements, including progress in responding to issues raised in last year's audit. The Council has a good track record of producing and using relevant and reliable data, and systems for validating data collected from partners are adequate, being done mainly through a shared area within the Council's intranet. Work is progressing to address weaknesses in some partnership data, as well as dealing with issues in respect of some of the new National Indicator set. Good quality information is provided to support decision makers. Reports include a combination of financial and operational performance information which is tailored to the needs of the audience. Their format has recently been reviewed to make them easier to understand.
- 41** In addition to regular monitoring reports, joint performance monitoring sessions involving Corporate Management Team and the Council's Executive consider in-depth reports and presentations on current performance issues. Information provided includes relevant comparisons with other organisations.
- 42** Reporting arrangements take account of elements of diversity and the Council is developing its information systems to enable greater geographical analysis of data. The Council has integrated within its performance management system the local and national indicators included in the LAA and provides regular performance reports to the Local Strategic Partnership (LSP).
- 43** The POG provides a mechanism for gathering feedback from decision makers to ensure reports remain relevant. Data management systems are effectively managed and controlled to minimise the risk of data loss or corruption. A disaster recovery plan is in place which is updated annually and regularly tested. Testing of the plan has not identified any problems which could impact on the reliability of data. An IT security policy is in place which covers key business areas, is compliant with national standards and is supported by appropriate practices and procedures, and the Council is working towards compliance with the Government Connect standard.

Use of resources judgements

44 The range of indicators used to manage performance has been reviewed to ensure alignment with the Local Area Agreement and the corporate priorities of the Council. Performance reports are structured around priorities for both the Council and the LSP and include summaries of performance at a strategic level. Information includes financial and efficiency measures as well as user satisfaction, quality of life indicators and elements of diversity. There are clear links between the performance management process and business planning and the Council has a track record of using performance information to target under-performance, improve value for money and identify actions to improve.

Data quality - audit spot checks

45 The Audit Commission requires that auditors carry out spot-checks of a sample of national, or local, indicators, to inform their Use of Resources score. In 2008/09 we have spot-checked two national indicators: NI 130 (Social care clients receiving self directed support) and NI 135 (Carers needs assessed and reviewed), and one local (LAA) indicator LAA 8.10 (GCSE results in deprived areas).

46 Our conclusions from checking these indicators are that the systems are sound, and there are no improvements that need to make to the systems of collection.

Good governance

47 The Council Constitution is comprehensive, clearly sets out the roles and responsibilities of Members and Officers. It follows the DETR model and is regularly reviewed so it remains up to date. There are predominantly good working relationships between members and officers. Improvements have been made in recent years, though there are still some tensions and further improvements can be made. The Council has responded positively to the outcomes from our ethical governance audit, and is considering how to measure and track progress against improvements.

48 The Council provides training to ensure that members are properly equipped and developed. A Member Development Committee has been established, so members can assess their own training needs and decide what training is required. Members have signed up to the IdeA Member Development Charter, and member development appraisals have been introduced, although only 17 members have currently signed up to a formal personal development plan.

49 There is still some work to do to ensure that all members and officers work together to achieve the Council's overall purpose and vision, and the level of this cooperation differs across the organisation. The Leader and Chief Executive have worked together to achieve corporate priorities in a structured way, and there are four joint monitor sessions held each year between CMT and Executive Members to review progress against key performance areas that support council priorities.

50 The Standards Committee operates in accordance with the requirements, publicises its role both internally and externally, and helps members follow their code of conduct. Consideration needs to be given to how high standards of behaviour are maintained when working in partnership with other organisations. The Council is actively trying to raise the profile of the Standards Committee, and has an independent co-opted member as chair. The Council hasn't fully assessed the training needs of members in relation to standards of conduct, but has provided some training in specific areas

during 2008/09. The Standards Committee and chair do not routinely meet with the Chief Executive, Leader or other party leaders to discuss ethical issues, although an initial meeting with the Chief Executive was held in June 2009.

- 51** The member complaints process is widely available via the Council's website, and although the outcomes of all investigations are published on the website, feedback is not currently sought from those involved in the complaint. Member and officer codes of conduct are in place and there is a formal member/ officer protocol within the constitution. Registers of interests and registers of gifts and hospitality are in place for members and senior officers, and reminders are sent annually to members on the requirements of the code of conduct.
- 52** The Council maintains a database of its partnerships, has set criteria for determining its significant partnerships, training is provided to officers, there is a 30 point checklist in corporate guidelines to help officers determine whether a partnership should be formed, and resources are available to support officers in setting up and monitoring partnership activity. All the main partnerships have action plans and performance indicators to measure whether they are achieving their aims, and significant partnerships complete an annual self assessment, with the results fed back to the LSP. The Council has a locality wide agreement with the third sector, i.e. voluntary and community organisations that is being linked into their efficiency agenda. The Council have put in place the Third Sector Compact, a national framework for working with voluntary and community organisations that they have adapted to their local circumstances.

Risk management and internal control

- 53** The Council has good risk management arrangements, risk is embedded within working practices, and continues to be more embedded within the day to day activities of the Council, being included in all major and minor project management, and linked to all policy, decision making and procurement processes. Risk is understood as an enabler for more successful project delivery, and as a way of seeking opportunity and improving efficiency. Risks are owned, managed and delivered within departments rather than by the risk management officer. The Admin Accom Project and the waste PFI have both used risk to help make project decisions and consider the potential barriers to successful project completion. In the current economic climate, the Council has actively sought to identify and manage the economic downturn risks, aligning the risks to the achievement of specific corporate priorities. Partnership risk is considered on a project basis and also in an annual questionnaire to key partnerships.
- 54** The Council provides risk management training to members and officers through the year, and the training was well received by Members who attended. Members are more involved in the risk management process, with updates being presented on key corporate risks to the Audit Committee for them to consider and comment upon as necessary. The final monitoring report of 2008/09 shows that the member review resulted in out of date risk actions being dealt with and the risks updated, and although some reference is made to corporate priorities in the report individual risks have not been explicitly linked to individual priorities.
- 55** The programme of counter fraud and corruption work is resourced, risk based and proportionate. There is an annual counter fraud activity plan agreed by the Audit

Use of resources judgements

Committee. This includes budgets for both reactive and preventative work and time for staff training and general fraud awareness. The counter fraud and corruption policy was revised and approved in March 2008, prepared in accordance with CIPFA good practice principles, and it sets out the overall approach of the Council.

- 56** The Council has a strong counter fraud culture and reviews the success of its arrangements. Fraud awareness training was provided to certain groups of staff, the council publicises successful investigations, and continued to work closely with the DWP and other organisations. The fraud team work with key departments such as housing to raise awareness and identify potential frauds, and internal and external publicity of the fraud team and successful prosecutions is used frequently. Several high profile cases with successful prosecutions, either working with the police or bringing their own prosecution, have served to embed a strong counter fraud culture within the council and a public awareness that fraud is not tolerated.
- 57** The Council's Audit and Governance Committee has a balanced membership, is independent, receives and approves reports on the control framework, and training is provided to members of the Committee. The Committee is starting to actively challenge internal control arrangements, though there is little evidence of liaison with other committees to identify potential internal control issues. The Council has an effective internal audit service that completed over 90% of the 2008/09 audit plan, but there have been vacancies in 2008/09 that have impacted on delivery. In addition in 2008/09 the Council has delivered the project to establish a separate Internal Audit shared service provider, which commenced on 1 April 2009. We will assess the operation and impact of the new arrangements in next years' Use of Resources assessment. The Internal Audit plan provides sufficient assurance over financial controls. The Constitution underpins all the internal control arrangements in place, and there is a framework in place for assessing and completing the AGS. An Officer Governance Group meets regularly to discuss governance arrangements, and coordinates preparation of the AGS. The s151 and Monitoring Officer, as well as the Constitution, effectively provide control over the legality of expenditure and compliance with law and regulations. Emergency and business continuity plans are in place and are regularly reviewed and tested.

Managing resources

Table 5 Managing resources - KLOE scores

| KLOE | Score | Overall theme score |
|-----------------------|-------|---------------------|
| 3.1 Natural resources | 2 | Level 2 |
| 3.2 Asset management | 2 | |

Natural resources

- 58** The Council has an understanding of the natural resources it consumes and has developed a strategic approach to reduce its environmental impact. It has developed an internally-focused Environmental Sustainability Strategy and has embarked on a Carbon Management Programme, although the Council cannot fully demonstrate its impact.
- 59** The Council calculated a baseline figure of its CO₂ emissions based on 2006/07 information which it has used to set targets and measure progress. This estimated the Council's annual CO₂ emissions as 57,800 tonnes, arising mainly from its housing stock (59 per cent), other buildings (28 per cent), transport (5 per cent) and street lighting (6 per cent). However, the Council has continued to verify the accuracy of the baseline data, and the original baseline included some estimates relating to buildings where accurate readings were not available.
- 60** The Council has set a target to reduce its carbon emissions by 25 per cent by 2013 excluding housing. It aims to reduce emissions from its housing stock by 25 per cent by 2020, reflecting longer term funding issues in respect of housing. Early progress has been made on implementing projects to reduce emissions, but the Council cannot fully demonstrate their impact.
- 61** The Council estimates that 400 tonnes of carbon were saved during 2008 through the opening of a purpose built Eco Depot, the installation of biomass boilers in a number of buildings and improved insulation, but is unable to accurately assess the impact of each project. Other projects are in progress which the Council anticipates will increase the saving to more than 2,400 tonnes by the end of 2010. Further savings are being delivered through improvements to heating systems and insulation of the housing stock linked to the Decent Homes Standard. Other projects relating to street lighting, transport and continued improvements to the Council's buildings are being developed to meet longer-term targets.
- 62** All water usage is monitored and new council buildings have water conservation devices. There are also examples of water being re-used, for example at the Eco Depot to wash vehicles. A recent review of the Corporate Plan made climate change a priority for the Council, resulting in the redirection of £250,000 in 2008/09 to fund carbon reduction projects. Resulting financial savings are to be reinvested in further projects, and bids for external funding are being submitted for building and street lighting projects. Two new posts have been created along with a Carbon Board comprising senior officers and councillors to oversee delivery of the carbon reduction plan.
- 63** Bids for capital investment in buildings must consider carbon reduction and information on carbon emissions is considered as part of the process to prioritise bids capital funding. The Council is also participating in a virtual trading scheme through Carbon Action Yorkshire to prepare for the introduction of the Carbon Reduction Commitment which will impose an annual carbon budget. The monitoring of elements of environmental performance is built into established performance management processes.
- 64** The Council is working towards an organisation-wide approach to managing environmental risks through the introduction of an Environmental Management system.

Use of resources judgements

This is not yet complete, although the process is well advanced in some areas such as Neighbourhood Services and Environmental Protection. The Council has carried out sustainability impact assessments on the Corporate Strategy and the draft Economic Strategy and plans to introduce this approach across all directorates in 2009. The Council has a sustainable procurement strategy and promotes the use of products that have a low environmental impact. Tender evaluation arrangements are being reviewed to emphasise the importance of reducing the Council's carbon footprint through the services it procures.

Asset management

- 65** The Council has developed a strategic approach to asset management, which has had some positive impact, but is not consistently applied across the organisation. There is a corporate Asset Management Plan (AMP) and a corporate group of officers charged with the task of implementing it. The Plan is well structured and based on good practice principles. The officer group comprises a range of appropriate, experienced officers from across the Council, recently supplemented by representatives from partner organisations. It provides a useful forum for sharing information and identifying opportunities to improve asset management, and has a role in prioritising bids for capital funding. However, the group relies on influence rather than direct control of asset management and structures are not in place to ensure principles are applied consistently.
- 66** There are some service AMPs in place which provide links with service planning, although these are not used effectively to manage progress towards strategic priorities. Area AMPs have been developed for some parts of the city to ensure the needs of local people are taken into account in managing assets in the locality. However, these are few, and are being developed in a piecemeal way. There are also examples of asset management taking place at a service level outside the Council's corporate approach. Implementation plans for asset management are not consistently robust. Corporate and service AMPs are not under-pinned by robust implementation plans although area AMPs have action plans which are clearly focused on local needs and priorities.
- 67** The delivery of ambitions for asset management is constrained by limited financial resources and a lack of a full understanding of how assets contribute to the achievement of corporate priorities. This undermines the Council's ability to demonstrate value for money in asset management. Steps are being taken to address the gaps in information regarding the Council's asset portfolio through the development of a new asset data base, but this is not yet complete.
- 68** Annual benchmarking is carried out against a set of national asset management indicators which is used to identify good practice, but there is no framework of local indicators and targets to routinely monitor progress against the objectives and priorities contained in the corporate AMP. Although a range of relevant indicators exist, they are seen as service-related indicators and are not brought together to provide a rounded view of the performance of the asset base.
- 69** The Council has a repair and maintenance strategy which aims to ensure its assets remain fit for purpose and there are examples of how the Council is improving services through improvements to its asset base. However, as repair and maintenance budgets

are largely devolved to services, it is impossible to ensure that they are consistently prioritised and there is no consistent approach to challenge whether assets provide value for money in meeting current and future needs. The Council is failing to address the growing level of backlog maintenance. The planned move to new office accommodation is expected to reduce the backlog by £5m, but delays in the move mean that these savings are yet to materialise. There is an established policy to work with community groups which is delivering community benefits.

- 70** There are examples of Council assets being transferred to community groups which have had a positive impact and others are being considered, as part of area asset management planning. Through the corporate officer group, the Council is engaging partners in identifying opportunities for sharing assets for the benefit of the local community. There are some examples of shared use of buildings with partners, but the Council and partners are working to develop a more strategic approach.

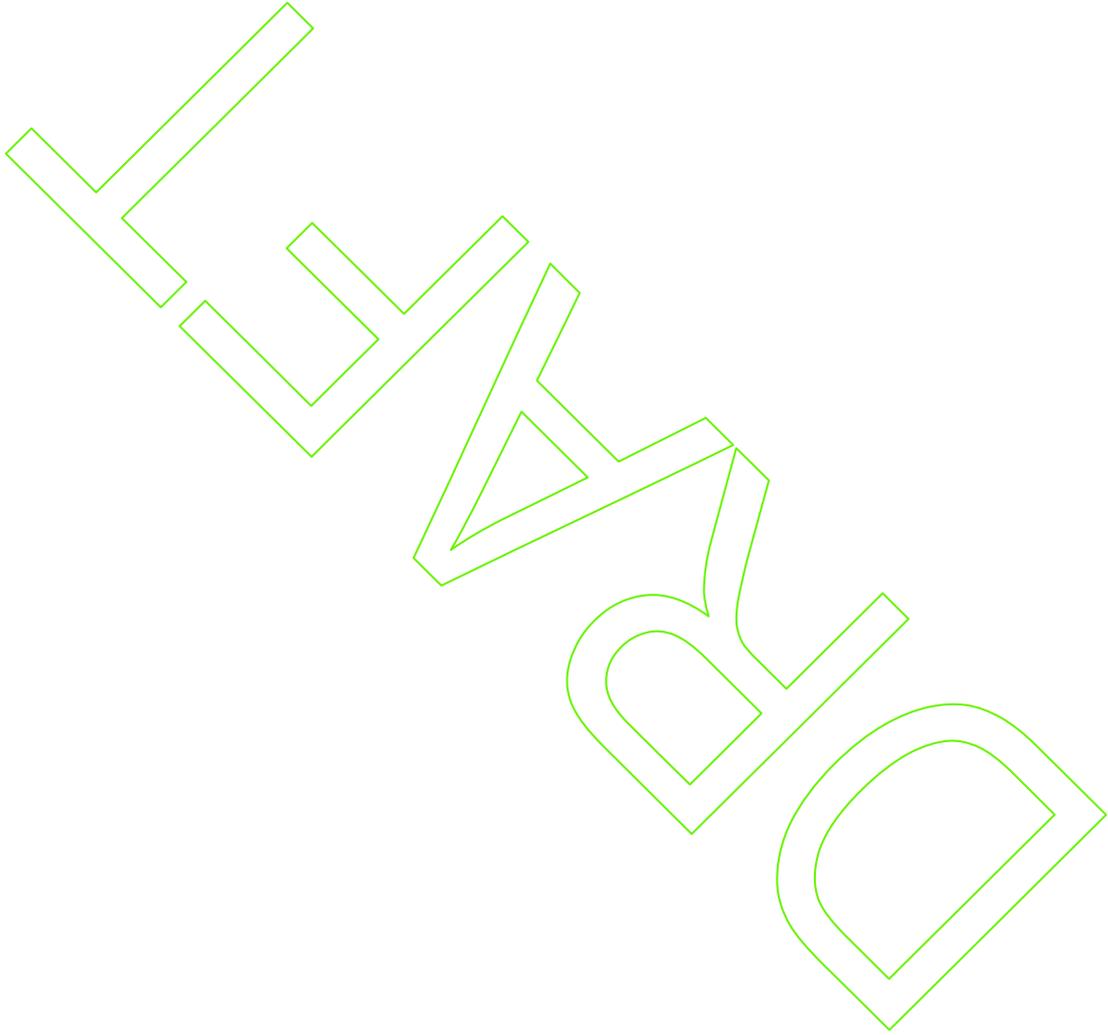
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Use of resources 2009/10

- 71** The key lines of enquiry specified for the assessment are set out in the Audit Commission's work programme and scales of fees 2009/10. My work on use of resources informs my 2009/10 value for money conclusion. In my letter of 28 April 2009 about the audit fee for 2009/10, I outlined that there were no significant risks I was aware of in relation to my value for money conclusion. This is still the case.
- 72** In assessing the 'managing resources' theme my work will focus on KLOE 3.2 - Asset Management, and KLOE 3.3 - Workforce planning. I have also considered whether there are any additional risks arising from my 2008/09 value for money conclusion and report that there are none.

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Audit and Governance Committee

21st September 2009

Report of the Assistant Director of Resources (Finance)

Grant Claim Certification Report 2007/08 – Audit Commission

Summary

- 1 The purpose of this report is to allow consideration of the Grant Claim Certification Report 2007/08 produced by the Audit Commission (Annex 1). The report reviews the Council's arrangements for the preparation and administration of grant and subsidy claims within the council.

Background

- 2 The report identifies that the Audit Commission was responsible for certifying grant claims and subsidies to the value of £142m in 2007/08, this certification work being charged on an hourly basis to the council.
- 3 The overall conclusion from the Audit Commission's findings was that general improvement could be demonstrated from the previous year with fewer grant claims being subject to amendment or qualification, and more submission deadlines being met by the council.
- 4 The report does however recognise where further specific improvements can still be made to the council's approach. These include:
 - (a) Preventing inconsistencies in the approach taken to the preparation of working papers;
 - (b) Avoiding grant claim submission deadlines being missed;
 - (c) Ensuring key staff are available to answer auditor queries.
- 5 As a result of discussions resulting from this review, an action plan has been agreed with the Audit Commission and this can be found at Appendix 5 within the report. Although responsibility for some of these actions lies with Finance Managers within Directorates, Corporate Finance will play a key role in ensuring that these actions are implemented.
- 6 In order to both promote consistency in approach across Directorates and ensure adequate quality control arrangements are in place across the Council's finance function, the Technical Finance Manager within

Corporate Finance has been given responsibility for the overall co-ordination of the grant administration activity within the council.

Consultation

7 Corporate officers have contributed to this report where appropriate.

Options

8 Not relevant for the purpose of the report.

Analysis

9 Not relevant for the purpose of the report.

Corporate Priorities

10 This report contributes to the council's overall aims and priorities by helping to ensure probity, integrity and honesty in everything it does. It specifically contributes to the Effective Organisation priority in the Corporate Strategy.

Implications

11 The implications are:

- **Financial** – there are no financial implications other than those outlined in the detail of the report
- **Human Resources (HR)** – there are no HR implications to this report.
- **Equalities** - there are no equalities implications to this report.
- **Legal** – there are no legal implications to this report.
- **Crime and Disorder** – there are no crime and disorder implications to this report.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

Risk Management Assessment

12 Failure to provide adequate arrangements for the administration and preparation of grant claims result in both financial and reputational risks to the council.

Recommendation

13 Members are asked to:

- (a) Consider the content of the Grant Claim Certification report 2007/08;

Reason

To enable Members to consider the effectiveness of the council's grant administration activity, and in particular the areas for improvement identified within the report.

- (b) Note the agreed Action Plan presented as Appendix 5 to the Audit Commission Report.

Reason

To enable Members to comment on the proposed improvement arrangements.

Contact Details

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Ian Floyd
Director of Resources
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Report Approved



Date 19 August
2009

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All



For further information please contact the author of the report

Background Papers

None

Annexes

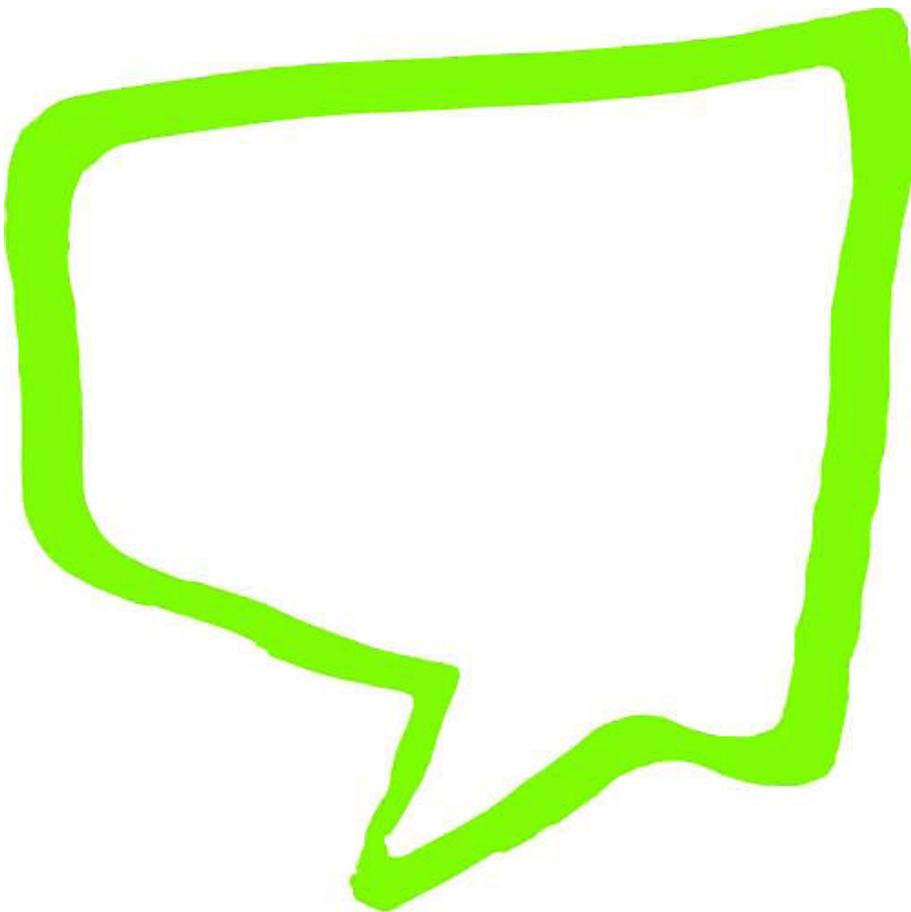
Annex 1 – Grant Claim Certification Report 2007/08

Grant Claim Certification Report

City of York Council

Audit 2007/08

June 2009



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Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
 - any third party.
-

Summary report

Introduction

- 1 Under section 28 of the Audit Commission Act 1998, the Audit Commission makes arrangements for certifying claims and returns in respect of grants or subsidies received by the Council. The Commission, rather than its appointed auditors, has the responsibility for making certification arrangements, and the auditors act as agents of the Commission in this respect. This is a different relationship to that which exists from the audit work under the Code of Audit Practice.
- 2 Good practice in the preparation of grant claims and returns is set out in the '*Statement of Responsibilities of grant paying bodies, authorities, the Audit Commission and auditors in relation to grant claims and returns*', as published by the Audit Commission. This document summarises the framework under which the Audit Commission makes certification arrangements and to assist authorities by summarising the extent of their responsibilities.
- 3 The grant claims we certify range from highly complex multi-million pound schemes, to more straightforward reimbursements of pre-approved expenditure. In 2007/08, the value of the grant claims and subsidies we certified was £142m.
- 4 Certification work is designed to provide assurance to the grant paying body that, for example, a grant claim is fairly stated and in accordance with specified terms and conditions. We reach a 'conclusion' on each grant claim or return and set out any matters to report to the grant paying body within a qualification letter.
- 5 The certification regime is outside our Code of Audit Practice responsibilities and as such the work we do is charged on an hourly basis. In order to minimise the cost of certification, all authorities should implement the following actions.
 - Provide comprehensive working papers that fully support the grant claim or return.
 - Demonstrate that there is an effective control environment in place to ensure the grant claim or return was prepared in line with the relevant terms and conditions.
 - Implement a robust quality assurance regime to ensure timely submission of well supported grant claims and returns.

Audit approach

- 6 The Audit Commission takes a risk based approach to the certification of grant claims.
- 7 For grant claims and returns below a de minimis amount set by the Commission (currently £100,000), the Commission will not make certification arrangements, regardless of any statutory certification requirement or any certification requirement set out in grant terms and conditions.

- 8 For grant claims and returns between the de minimis amount and a threshold to be set by the Commission (currently £500,000), auditors will undertake limited tests to agree entries on the grant claim or return to underlying records.
- 9 For grant claims and returns above £500,000, the control environment for the preparation of the grant claim will be assessed. Where the control environment can be fully relied upon auditors will undertake a reduced level of testing.

Main conclusions

- 10 Overall our findings show general improvements from the previous year. Fewer grant claims have been subject to amendment or qualification, and more submission deadlines were met by the council. However, there are still improvements that can be made to improve the council's approach to producing the grant claims and returns. In particular, the council should:
- prevent inconsistencies in the approach taken to preparation of working papers;
 - avoid grant claim submission deadlines being missed; and
 - ensure key staff are available to answer auditor queries.
- 11 The consequence of these inconsistencies is that our time, and therefore the fee we charge, has been higher than planned, as shown below.

Table 1

| | £ |
|-----------------------------|--------|
| Original budgeted grant fee | 50,000 |
| Revised budgeted grant fee | 43,062 |
| Actual grant fee | 45,869 |
| Fee variance | 2,807 |

- 12 The total proportion of grant claims which missed the submission deadline has decreased from the previous year, with 4 out of 15 grant claims being submitted late this year (27 per cent) as opposed to 11 out of 18 in 2006/07 (61 per cent). Whilst this is a clear improvement, the grant claim submission deadlines are known well in advance, and grant claims should only be submitted late in exceptional circumstances. There are still instances where grant claim are not submitted on time and where there is no communication with us to inform of us of the delay and the likely date when the grant claim is to be submitted.
- 13 The number and proportion of grant claims qualified or amended has decreased substantially from 2006/07. The proportion of grant claims qualified has also decreased from the 2005/06 level. This represents good progress.

Summary report

Table 2 Amended or qualified grant claims over the last three years

| | 2005/06 | 2006/07 | 2007/08 |
|-----------------------|----------------|----------------|----------------|
| % of claims amended | 21 | 44 | 40 |
| % of claims qualified | 39 | 44 | 27 |

- 14** In total, 15 grant claims were subject to audit certification in 2007/08, a reduction from 18 in the previous year. Set out below are our specific findings and recommendations arising from the 2007/08 certification work.

Detailed report

Assessment of the control environment

- 15 The starting point for our certification work for every grant claim is our assessment of the control environment in place for the preparation and compilation of each grant claim or return.
- 16 A strong control environment provides the responsible finance officer with assurance that the grant claim or return they sign is accurate and complies with the grant claim or return terms and conditions.
- 17 Where we are able to place reliance on the control environment for a specific grant claim or return, we will reduce the level of testing that we are required to perform.
- 18 In 2007/08 we assessed that the control environment could not be relied upon for 10 of the 15 grant claims submitted for certification (66 per cent). The main reasons why we could not place reliance on the control environment were:
 - previous record of amendment and/or qualification on the grant claim/return;
 - inadequate working papers to support the grant claim/return;
 - lack of information provided to detail how the grant claim/return was compiled and the quality monitoring processes in place; and
 - the inherent complexity of the grant claim/return.

Qualifications and amendments

- 19 The number of grant claims requiring amendment following certification work fell from 8 (44 per cent) in 2006/07 to 6 (40 per cent) in 2007/08.
- 20 The reasons for amendment in 2007/08 were:
 - simple arithmetic errors, which we would expect to have been picked up during pre-audit submission QA review;
 - simple presentational errors, which we would expect to have been picked up during pre-audit submission QA review;
 - specific terms and conditions not being complied with; and
 - complex grant terms, and complex systems being used to produce the claims.

Detailed report

- 21** We recommended last year that the internal quality monitoring procedures be improved to prevent errors stemming from inadequate peer review affecting claims in the future. For example, we would expect there to be systematic procedures to check the arithmetic on each grant claim/return prior to submission to us. We would also expect the responsible officer to ensure that all entries or amendments on the grant claim or return are fully supported by detailed working papers. We would expect a strong culture of review, to ensure that presentational issues do not appear on final grant claims or returns submitted to us. Finally, we would also expect there to be robust procedures designed to identify and entries on the claim or return that do not meet the specific terms and conditions relevant to it.
- 22** It is clear from the reasons for amendment listed above that further work needs to be undertaken on this. An example 'checklist' which could be adopted by the council has been included as Appendix 4 to this report.
- 23** The number of grant claims and returns qualified has reduced from 8 (44 per cent) in 2006/07 to 4 (27 per cent) in 2007/08.
- 24** A full list of the reasons for amendments and qualifications is at Appendix 1.

Recommendations

- R1** Review the reasons why grant claims or returns have been amended and/or qualified, to ensure that these issues are not repeated in the future.
- R2** Implement standardised internal quality monitoring procedures within the Council to address the issue of amendments stemming from inadequate review.

Timeliness of claims and returns submissions

- 25** The timely submission of grant claims and returns to the audit team is vital to planning the work and ensuring that nationally set certification deadlines are met. Failure to meet certification deadlines can lead to the suspension of payments or the withholding of grant income.
- 26** Councils with a strong track record of meeting submission deadlines set an internal timetable for working paper files to be prepared by the responsible accountant, so that the file can be reviewed in time to meet the submission deadline.
- 27** In 2007/08, three grant claims and returns (20 per cent) were submitted after the deadline set by the relevant grant paying body. This is a decrease from 61 per cent in the previous year. The table below sets out the grant claims and returns that were submitted late for certification.
- 28** There has clearly been good progress in this area, although the submission deadlines are set well in advance, so we would expect further improvements in years to come.

Table 3 Grant claims and returns submitted late

| CI Ref | Claim Title | Required submission date | Actual submission date | Number of days late in 2007/08 |
|--------|------------------------------------|--------------------------|------------------------|--------------------------------|
| EYC02 | General sure start grant | 30 May 2008 | 19 September 2008 | 112 |
| LA01 | National non-domestic rates return | 27 June 2008 | 17 July 2008 | 20 |
| RG33 | Yorkshire Forward - Science City | 30 June 2008 | 15 August 2008 | 46 |

- 29** In particular, the lateness of the SureStart grant submission is significant and this was also submitted late in 2006/07 (submitted 35 days late). We would also have expected this to be a particular priority considering the problems we encountered with this grant claim last year, coupled with the high value of this claim (£6.5m).
- 30** Although we were informed that some of these grant claims were going to miss the submission deadline, this wasn't the case for all late submissions. Where we are not informed of potential delays to submission there is a risk that we will not have sufficient time to complete our work and the certification deadline may be missed.
- 31** Late submission of grant claims or returns has a knock-on effect in terms of auditor submission dates also potentially not being met. This is exacerbated when key contacts for the grant do not make it a priority to respond promptly, accurately and comprehensively to auditor queries.
- 32** It is important for the Council to be aware of the impact of auditor queries not being given high priority, particularly where a late grant claim or return is involved. These impacts can include funding potentially being cut by funding bodies. Although the SureStart grant claim was originally submitted to auditors 112 days late, as a result of the complications described above the grant was finally certified 151 days late.

Recommendations

- R3** Review reasons why grant claims and returns were not submitted by the deadline date, and implement measures to avoid these deadlines being missed in future years.
- R4** Ensure that auditors are made aware as soon as it is likely that a submission date is not going to be met.
- R5** Prioritise the response to audit queries on grant claims so that audit deadlines are not unnecessarily missed.

Quality of Working Papers

- 33** The quality of working papers provided last year was identified as a key area where improvements could and should be made by the council.
- 34** The Statement of Responsibilities outlines the working paper requirements expected by the Council. Briefly, these state that grant claims and returns should be supported by adequate working papers which:
- satisfy the statutory requirement on the Chief Financial Officer to maintain adequate records in relation to grant claims and returns;
 - document the basis of the grant claim or return and the derivation of the information it contains; and
 - are kept in a form which will help the auditor and reduce certification time and, in consequence, the cost of the audit to the council.
- 35** The expected contents of a quality working paper file to support a grant claim or return have been provided at Appendix 2. This is an indicative list of the types of documents that should be provided and is not exhaustive. Our expectations in terms of the standard of working papers are set out in Appendix 3.
- 36** This year the standard of working papers was largely unchanged from 2006/07. Working paper quality is still variable across the different grant claims and returns.
- The working papers for a number of grant claims and returns were assessed as being of fair quality, although improvements could be made. Some of the grant claims (eg the Yorkshire Forward grant claims) had working papers provided which included aspects of best practice and were assessed as being 'good'.
 - The working papers provided in support of the SureStart grant claim were assessed to not be meeting the working paper requirements as set out in the Statement of Responsibilities.
 - The working papers provided in support of the remainder of the grants and returns were assessed as being of fair quality although improvements could be made.
- 37** An immediate improvement which could be made would be to complete a pre-audit checklist in all cases, and incorporate this into the pre audit QA process. This would help provide assurance to the responsible officer signing the claim form that the claims are right. An example pre-audit checklist which could be adopted is shown at Appendix 4.
- 38** Evidence from other authorities shows that the introduction of a standardised approach to the preparation of working paper files has helped to reduce the number of grant claims amended and/or qualified, reduce the number of grant claims submitted late, and increase the overall quality of supporting working papers thus reducing fees.

Recommendations

- R6** When compiling a working paper file, ensure that all entries on the grant claim or return are fully supported within a working paper file dedicated to the grant claim or return.
- R7** Ensure that good practice in the preparation of working paper files is disseminated throughout the Council to raise overall standards.
- R8** Implement a standardised approach to the preparation of working paper files across each Directorate. Use of the Pre-audit checklist, shown at Appendix 4, could be one way of doing this.
- R9** Ensure that internal quality monitoring processes are operating effectively so that all working paper files are reviewed prior to submission to the audit team for certification. Use of the Pre-audit checklist, shown at Appendix 4, could be one way of doing this.

Appendix 1 – Qualification and amendments list

| Claim Ref. | Claim Title | Reason for amendment (A) and/or qualification (Q) |
|------------|---|--|
| BEN01 | Housing and Council Tax Benefits Scheme | (A): Amendments to various cells in the return due to a mix of system and Council errors. (Q): Qualified due to the extent of errors found, and the DWP requirement to qualify where anything less than 100 per cent of cases in a cell have been tested. |
| HOU01 | Housing Subsidies and Grants | (A): Amendment to one cell in the grant which did not agree to the 2007/08 financial statements. |
| LA01 | National Non-Domestic Rates Return | (Q): Qualified as an incorrect rateable value had been used on the NNDR system, resulting from a misinterpretation of a schedule issued by the Valuations Office. |
| PEN05 | Teachers Pension Return | (A): Amended due to an arithmetic error on the claim, and also as the claim did not agree with council payroll records. |
| RG33 | Yorkshire Forward - Science City | (A): Amended due to an arithmetic error. (Q): Qualified as the approved amounts included on the claim did not agree with the approved figures issued by Yorkshire Forward. |
| RG33 | Yorkshire Forward - City Centre Partnership | (A): Amended as one of the figures used did not agree with the working papers. |
| EYC02 | General Sure Start Grant | (A): Amended as the figure used for the 'Revenue' block did not agree to council ledger accounts. (Q): Qualified as insufficient records were kept to support the inclusion of some expenditure in this years grant return. |

Appendix 2 – Contents of a quality working paper file

- 1 The key to preparing a quality claim file is for the preparer to note the requirements set out in the Certification Instructions (CI). Each CI contains details of all testing to be carried out and from this the preparer should be able to ascertain the sort of evidence and documentation that we will require in conducting our certification work.
- 2 As a guide, the following is a list of minimum levels of documentation that we would expect to see on a high quality working paper file to support a grant claim.

Non-financial information

- Contents Page
- Description of the processes involved in ensuring the terms and conditions of the claim are met – what are the internal control procedures in place?
- Original grant approvals/correspondence.
- Variations to grant approvals.
- Tendering information including evidence that contracts were awarded in line with standing orders or claim requirements.
- A copy of the final claim fully referenced to the sections of the file that support individual entries on the claim form.

Financial information

- Copies of asset registers where required by the certification instructions.
- Copies of interim claims where applicable.
- Reconciliation of all income and expenditure to working papers and ledger prints.
- Details of income received to date including ledger prints and remittance advices.
- A narrative explanation of any expenditure apportionment.
- Details on match-funding received including evidence to support receipt.
- Where charges for in-house staff time have been claimed, details of the number of hours charged and the rate per hour should be agreed to individual payroll records to support the amount claimed.

Appendix 3 – Working paper characteristics

- 1 Working papers should be produced to support all entries on the claim or return. Each working paper should:
 - clearly agree to the entry on the claim or return;
 - demonstrate how any calculations within the working paper have been produced;
 - contain explanations of what the working paper is showing where not obvious to a person unfamiliar with the system used to generate it;
 - be supported to relevant screen prints or ledger prints;
 - contain clear references to other working papers that are relevant to the entry on the claim or return; and
 - be fully indexed.

Appendix 4 – Example checklist

Table 4 Example pre-audit checklist

| Working Paper Check | Yes/No | Initials and Date | Working paper ref: |
|---|--------|-------------------|--------------------|
| Ensure that all relevant parts of the claim have been completed. | | | |
| Ensure that the correct form been used. | | | |
| Ensure that the arithmetic right on the claim form. | | | |
| Ensure that each figure is supported by clear working papers with adequate cross-referencing. | | | |
| Compare claim entries to previous period and ensure explanations for unusual/significant variances are documented. | | | |
| Ensure that copies of all grant approvals and variations/relevant correspondence with the grant paying department are included on the file. | | | |
| Ensure that the claim entries for all income and expenditure reconcile to relevant working papers and ledger prints, and that these are included on the working paper file. Ensure that all accounts are reconciled at the claim date. | | | |
| Ensure that all income received to date is supported by remittance notes and ledger prints. | | | |
| Ensure that there is evidence to support any expenditure apportionment. | | | |
| Ensure that tendering information is included on the file, including evidence that contracts were awarded in accordance with Standing Orders or with claim requirements. | | | |
| Ensure that the debtor/creditor account agrees with the claim and advances. | | | |
| Ensure that payments on account are those received in respect of the claim/return period up to the date of the council's certificate. | | | |
| Ensure the Certification Instruction has been adhered to when compiling the claim, particularly noting the definition of eligible expenditure and accounting basis. | | | |
| Ensure that the senior officer preparing to certify the claim/return is authorised to do so under the terms of the scheme. | | | |

Appendix 4 – Example checklist

| Working Paper Check | Yes/No | Initials and Date | Working paper ref: |
|---|----------------------------|--------------------------|---------------------------|
| Ensure the claim/return is submitted to the audit team as per the agreed timetable. If delays are anticipated please notify the claims co-ordinator and the audit team. | | | |
| Documentation of Controls | Yes/No | Initials and Date | Working paper ref: |
| Are the controls to ensure that the terms and conditions are complied with, in particular relating to the eligibility of expenditure, documented? | | | |
| Are the controls to ensure that there is no duplication with other claims documented? | | | |
| Are the controls over postings from other systems/journals documented? | | | |
| Is evidence of the monitoring records/audit trail to support third party expenditure included in the claim provided? | | | |
| Are the controls to ensure that transactions are accurately coded and authorized documented? | | | |
| Is any relevant internal audit work that has been undertaken documented? | | | |
| Prepared by | Responsible Officer | | Date |
| | | | |
| Review | Yes/NO | Initials and Date | Working paper ref: |
| Has the file been reviewed to check that: | | | |
| Working papers are complete? | | | |
| The claim is arithmetically accurate? | | | |
| All steps of the checklist have been completed? | | | |
| Reviewed by | Responsible Officer | | Date |
| | | | |

Appendix 5 – Action plan

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|----------|--|--|------------------|--------|---|-------------|
| 7 | R1 Review the reasons why grant claims or returns have been amended and/or qualified, to ensure that these issues are not repeated in the future. | 2 | Finance Managers | Yes | FM's to review feedback in their own directorates. | August 2009 |
| 7 | R2 Implement standardised internal quality monitoring procedures within the Council to address the issue of amendments stemming from inadequate review. | 3 | Finance Managers | Yes | Standardisation of internal QA to be discussed at SAMs meeting. | July 2009 |
| 8 | R3 Review reasons why grant claims and returns were not submitted by the deadline date, and implement measures to avoid these deadlines being missed in future years. | 3 | Finance Managers | Yes | FM's to review feedback in their own directorates. | August 2009 |
| 8 | R4 Ensure that auditors are made aware as soon as it is likely that a submission date is not going to be met. | 3 | Finance Managers | Yes | FM's to action this recommendation within their directorates. | July 2009 |
| 8 | R5 Prioritise the response to audit queries on grant claims so that audit deadlines are not unnecessarily missed. | 3 | Finance Managers | Yes | FM's to action this recommendation within their directorates with reference to the Audit protocol (see R7). | July 2009 |
| 10 | R6 When compiling a working paper file, ensure that all entries on the grant claim or return are fully supported within a working paper file dedicated to the grant claim or return. | 3 | Finance Managers | Yes | FM's to action this recommendation within their directorates. | July 2009 |

Appendix 5 – Action plan

| Page no. | Recommendation | Priority 1 = Low 2 = Med 3 = High | Responsibility | Agreed | Comments | Date |
|----------|---|--|------------------------------|--------|---|-----------|
| 10 | R7 Ensure that good practice in the preparation of working paper files is disseminated throughout the Council to raise overall standards. | 2 | Technical Finance Manager | Yes | Good practice has been disseminated on working papers through the cross service 'Close of Accounts Working Group' as part of the Audit Protocol introduced as part of the 2008/09 Close-down process. | June 2009 |
| 10 | R8 Implement a standardised approach to the preparation of working paper files across each Directorate. Use of the Pre-audit checklist, shown at Appendix 4, could be one way of doing this. | 2 | Finance Managers | Yes | Standardisation of internal QA to be discussed at SAMs meeting. | July 2009 |
| 10 | R9 Ensure that internal quality monitoring processes are operating effectively so that all working paper files are reviewed prior to submission to the audit team for certification. Use of the Pre-audit checklist, shown at Appendix 4, could be one way of doing this. | 2 | Finance Managers | Yes | FM's to action this recommendation within their directorates with reference to the Audit protocol (see R7). | July 2009 |

The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, auditing the £200 billion spent by 11,000 local public bodies.

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Audit & Governance Committee

21 September 2009

Report of the Assistant Director of Resources (Finance)

External Funding/Grant Guidance Manual

Summary

- 1 The purpose of this paper is to present to Audit & Governance Committee (A&G) for discussion and comment the draft External Funding/ Grant Guidance Manual (which will form part of the supplementary guidance to the Financial Regulations).

Background

- 2 The council's current Financial Regulations do not contain specific information on best practice for external funding/ grant guidance.
- 3 There is an increasing number of external funding/ grant opportunities that the council is eligible to apply for (see 4. below). These grant schemes have the potential to provide the council with new/additional funding (revenue and/or capital) for services and facilities. Many of the recent grant funds have had very tight timescales (3 months or less) for the development of applications.
- 4 The Grants and Partnership Team in Resources provide a corporate service to identify and assess external funding opportunities and to provide support for those developing and writing funding applications. Recent examples of funding secured by applications written by the Grants and Partnership Team include £3.68m for the Cycling City and £0.98m for the re-development of St Clements Hall. Increasing the number, scope and success of applications means that the implications, potential commitments and liabilities (including grant conditions) of those applications need to be clearly understood and appropriately implemented.
- 5 Item 8 on this A&G agenda (Grant Claim Certification Report 2007/08 - Audit Commission), identifies a number of recommended actions to improve grants claims being made by the council.
- 6 In addition to the above process of increasing funds into the council by means of grant applications to external bodies, the council also distributes a wide variety of grants to organisations and individuals. At

present there are no good practice guidelines for staff that are involved in such processes.

External Funding/Grant Guidance Manual

- 7 In light of the above, there is a need to establish some good practice principles that underpin and improve the way that the council applies for grants, distributes grants and certifies grant expenditure.
- 8 This is the purpose of the External Funding/Grant Guidance Manual (Annex A), which is set out under 4 main sections:
 - Applying for discretionary grant funds from external bodies
 - Certifying/ In receipt of grant allocations
 - Distributing grants to organisations
 - Distributing grants to individuals.
- 9 The External Funding/Grant Guidance Manual will be one of the supplementary guidance documents to the Financial Regulations which this Committee can approve.
- 10 In addition to the Manual, it is the intention that the Grants and Partnership Team will produce an 'operational' handbook for officers in the next 12 months that will further assist them by providing additional background, detail and references. This is particularly important given the wide scope and various processes and definitions of 'external funding' and 'grants'.
- 11 It is expected that the Manual will be amended on a regular basis in light of changes to best practice and to reflect relevant audit report recommendations.

Consultation

- 12 The draft Guidance Manual has been circulated to all finance managers for consultation purposes along with other key officers across the council, including many of those who regularly apply for, or distribute, grants.

Options

- 13 The increasing number and variety of grant applications and processes are likely to increase the council's exposure to a variety of risks, if no action is taken to establish some basic principles, standards and good practice.
- 14 The Audit Commission has made some clear recommendations about actions required to improve performance in processing grants claims.
- 15 This manual seeks to address these two concerns.

Analysis

16 Not applicable to this report.

Corporate priorities

17 The implementation of effective financial control is critical in contributing to the delivery of an 'Effective Organisation' and helps to underpin and support all priorities that form the Corporate Strategy.

Implications

- 18 a) **Financial** – There are no direct resource requirements arising from the introduction of the Guidance Manual. Indirectly, improvements in practice are intended to: ensure funds are claimed appropriately and on time; increase funds available for facilities and services; lead to better assessment of commitments and potential liabilities; facilitate more effective distribution of grants. In addition, and more directly, it should be noted that failure to appropriately claim grants (either in time or in correct detail), or failure to comply with other critical terms and conditions of external funding could lead to the loss of part or all of the funding.
- b) **Human Resources (HR)** - There are no implications.
- c) **Equalities** - There are no significant implications other than the implementation of appropriate assessment methods for applications.
- d) **Legal** – There are some minor implications, regarding occasional legal advice, for example, assistance with the appropriate wording of grant conditions such as grant reclaim clauses.
- e) **Crime and Disorder** - There are no implications.
- f) **Information Technology (IT)** - There are no implications.
- g) **Property** - There are no implications.

Risk Management

19 The organisation is at some risk if it does not have effective and appropriate standards, guidance and processes for external funding and grants. Within some grant arrangements the council will be the Accountable Body and as such should appropriately discharge its responsibilities to the funding body, implementing proper stewardship of funds and integrity of its procedures.

Recommendations

- 20 Audit & Governance members are asked to comment on and approve the content of the draft External Funding/ Grant Guidance Manual attached to this report at Annex A.

Reason

To ensure that the council implements improvements in external funding and grants applications, claims and distribution processes.

Author:

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Chief Officer Responsible for the report:

Keith Best
Assistant Director (Finance)

Report
Approved

Date 7th September
2009

Specialist Implications Officer(s)

Wards Affected

All

For further information please contact the author of the report

Background Papers

None

Annexes

Annex A – External Funding/ Grant Guidance Manual



CITY OF YORK COUNCIL

**EXTERNAL FUNDING/ GRANT GUIDANCE
MANUAL
(Draft)**

Supplementary guidance to the financial regulations

Version 1 September 2009

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EXTERNAL FUNDING/ GRANT GUIDANCE MANUAL

1 INTRODUCTION

1.1 This guidance is provided to assist council staff that are seeking external grant funding, in receipt of or certifying grant claims or distributing grant funding. There are 4 main sections to this guidance:

- Applying for discretionary grant funds from external bodies (Para 4)
- In receipt of allocations or certifying grant claims (Para 5)
- Distributing grants to organisations (Para 6)
- Distributing grants to individuals (Para 7)

2 REFERENCES

2.1 This guidance should be read in conjunction with the York Compact's 'Funding and Commissioning Code of Good Practice' to which the council is a signatory.

2.2 The York Compact sets out the way the council works with voluntary and community organisations. The Compact includes York's Primary Care and Hospital Trusts as well as the York and North Yorkshire Learning and Skills Council.

2.3 The Compact Codes identify certain standards with which both the Council and the Third Sector will comply including the above Code, which relates to grant funding given by the Council to the Third Sector. Whilst this agreement is not legally binding, the Council and the other signatories to the Compact are committed to making it work. (More information at: [York compact](#))

2.4 This guidance also draws on the Audit Commission's Grant Claim Certification Report 2007/08, and the related, agreed action plan and checklists.

3 DEFINITIONS

3.1 'Grants' can be defined in a number of ways but common characteristics of grant funds include:

- Monies that are given/ distributed in order to achieve some specific outcomes/ purpose/ provision
- Monies with a time limit and/or finite budget
- In 'discretionary' (see below) grant schemes, the funder sets general criteria under which applicants have latitude to put forward a range of projects/ schemes that fulfil / deliver the criteria. This latitude within the criteria, can be used as a way to help distinguish 'grants' from 'procurement' and 'commissioning' – within the latter two there is a very clear specification of the service or item required
- Grants criteria might include either or both 'eligibility' and 'priority' criteria. 'Eligibility' is used to define criteria that must be met in order to access the

fund and often refers to some or all of the following: type of applicant; nature of scheme; beneficiaries; location. 'Priority' criteria are used to judge the relative merits of applications on a wide variety of factors, and might include such things as: need; demand; consultation; evaluation; methods/ processes; match funding.

- 3.2 'Discretionary grant funds', as used here, means those grant funds where there is a competitive application process, as opposed to an 'allocation' (see below).
- 3.3 'Grant allocation' means those funds given to the council for programmes or services, which are not given as a result of a competitive application process.
- 3.4 'Third Sector' is a term used to describe a range of bodies, including voluntary and community organisations, charities or social enterprises (i.e. not statutory or commercial organisations).
- 3.5 This guidance does not cover 'procurement' or 'commissioning'.

4 APPLYING FOR DISCRETIONARY GRANT FUNDS FROM EXTERNAL BODIES

- 4.1 External grants should only be sought to fund projects with aims that are compatible with city-wide, corporate, departmental and neighbourhood strategies or that enhance statutory/regulatory services.
- 4.2 A designated officer should be identified who will be responsible for managing the grant application and subsequent project.
- 4.3 Where there are particular risks/ sensitivities to be considered, the relevant Assistant Director should approve the principle of the application for external funding before any work is undertaken.
- 4.4 Prior to application, the Council's Head of Finance and relevant departmental finance manager should be informed to ensure that the potential funding will be properly recorded in the Council's accounts and to consider/ advise on: requirements for council financial commitment (such as match funding); approval methods for financial commitments; any longer term funding implications. Other relevant stakeholders should also be informed such as executive members/ ward councillors.
- 4.5 When writing the application, the designated officer should:
 - a) Liaise with any other relevant departments at the earliest opportunity.
 - b) If the scheme is a discretionary grant application, notify the Grants and Partnership Team for logging onto the council's grants database.
- 4.6 Before seeking funding, officers should undertake a thorough risk assessment including:
 - a) Is any required match or partner funding secured and approved?
 - b) Can the funding/grant conditions realistically be met?
 - c) What are the implications if the scheme does not fulfil its objectives?

- 4.7 Grant applications should include deliverable objectives that are specific, measurable, achievable, realistic and timebound (SMART objectives).
- 4.8 Before submission, designated officers should have ensured that the grant application has specifically and appropriately considered VAT, both in the immediate budget for the application but also within the longer-term implications for both the authority and for any partners/ third parties who are/ may be involved in the future.
- 4.9 Grants can be for capital or revenue projects. Capital is generally defined as buildings, infrastructure projects, major works and equipment. Revenue relates to ongoing costs such as staffing, day to day running costs and minor equipment. Where capital funding is sought officers should consider the following items: length of security of tenure; requirements for planning permissions/ listed building consents/ building regulations/ Disability Discrimination Act.
- 4.10 The officer should consider the sustainability of the project, before submitting the application. Specifically this means environmental, social and financial sustainability. In this context this means considering:
- a) the environmental, social and economic goals and potential impacts of a project;
 - b) opportunities for continuing/ maintaining the project either through funding by other means or incorporating its principles/ activities into mainstream work after the external funding ceases; and
 - c) employee costs/ liabilities (if relevant) when grant funding ends, for example redundancy costs.
- 4.11 The designated officer should put in place monitoring and evaluation to ensure that the project's objectives are achieved and that the funding conditions are met.
- 4.12 External funding should not be spent on anything other than what was initially agreed with the funder, unless specific written permission for the variance has been received from the funder.
- 4.13 Expenditure of external funding should be fully recorded so that evidence can be provided to the funding body, if required, of exactly how the funds were spent. Expenditure of match funding should also be recorded.
- 4.14 If at any time during the project difficulties arise which mean that funding conditions may not be met, or the project may overspend, the relevant Director and/ or Assistant Director should be informed immediately and the funder also informed as appropriate.

5 CERTIFYING/ IN RECEIPT OF GRANT ALLOCATIONS

- 5.1 Where officers are implementing national/ Government grant initiatives, the requirements of the funding provider should be closely adhered to, unless there are compelling reasons for doing otherwise.

- 5.2 General principles to adhere to for officers in receipt of grant allocations:
- Grant should be spent on the items identified in the application
 - Variance from original budgets or working papers should be appropriately identified and addressed
 - Funders requirements for reporting should be met
 - Grant claims should be submitted on or before the due dates and where appropriate should make allowance for auditors requirements in the timescale
 - Key staff should be available to answer auditor and funder queries
 - Appropriately detailed records should be kept for the life of the project, particularly in relation to expenditure
 - Significant decisions should be appropriately recorded in working papers, noting who made the decision and when it was made.
- 5.3 The Audit Commission's Grant Claim Certification report 2007/8 (dated June 2009) identified 9 recommended actions for City of York Council based on their audit of existing practice (See Box below).

**Audit Commission recommendations/ agreed action plan for
City of York Council**

Finance Managers to:

- Review the reasons why previous grant claims or returns have been amended and/or qualified, in order to ensure that these issues are not repeated in the future
- Implement standardized internal quality monitoring procedures within the Council to address the issue of amendments stemming from inadequate review
- Review reasons why grant claims and returns were not submitted by the deadline date, and implement measures to avoid these deadlines being missed in future years
- Ensure that auditors are made aware as soon as it is likely that a submission date is not going to be met
- Prioritise the response to audit queries on grant claims so that audit deadlines are not unnecessarily missed
- When compiling a working paper file, ensure that all entries on the grant claim or return are fully supported within a working paper file dedicated to the grant claim or return
- Implement a standardised approach to the preparation of working paper files across each Directorate, using the Pre-audit checklist
- Ensure that internal quality monitoring processes are operating effectively so that all working paper files are reviewed prior to submission to the audit team for certification, using the Pre-audit checklist.

Technical Finance Manager to:

- Ensure that good practice in the preparation of working paper files is disseminated throughout the Council to raise overall standards.

See the Audit Commission's Grant Claim Certification Report, Audit 2007/08, published in June 2009, for further information including checklists and recommendations on how to keep working papers.

6 DISTRIBUTING GRANTS TO OTHER ORGANISATIONS

- 6.1 When considering grant schemes to 'third sector' organisations, this guidance should also be read in conjunction with the 'Funding and Commissioning Code of Good Practice' from the York Compact, to which the council is a signatory.
- 6.2 There should be a designated officer responsible for administering the budget. This should be in line with the scheme of delegation and other financial regulations/ standing orders.
- 6.3 Unless there are specific reasons to the contrary, there should be evidence of financial need before grants are allocated. Officers should refer to the Compact on how to treat 'reserves' and/or seek advice from the Grants and Partnerships Team (Resources). Appropriate allowance should be made for any other planned projects and/or money reserved in case of emergency.
- 6.4 Grant schemes should:
- a) Have clear eligibility criteria
 - b) Have clear priority criteria, against which applications are then judged
 - c) Be well/ appropriately advertised for the target audience, with an appropriate length of time from advertising to closing date, in order to allow applicants sufficient time to create their application (refer to the Compact Guide)
 - d) Set out clear opening / closing dates and identify when decisions will be communicated to applicants
 - e) Appropriately address Equal Opportunities requirements
 - f) Identify appropriate complaints and appeals process (further advice on the difference from the Grants and Partnerships Team (Resources)).
- 6.5 It is generally expected that grant schemes will have aims that are compatible with citywide, corporate, departmental and neighbourhood strategies or that enhance statutory/regulatory services. However, exceptions to this might include grant schemes where the council is either:
- a) Simply responsible for implementing another organisation's grant criteria (e.g. Government grants), or
 - b) 'Passporting' the money on behalf of another organisation.
- 6.6 Officers should be clear about the accounting requirements/ implications for any grant funds distributed on behalf of the council or on behalf of others and in particular of any requirements under any defined 'Accountable body' status.
- 6.7 It is recommended that there should be sections on application forms that ask applicants to:
- Define their project aims in relation to the fund
 - Show how they meet/ exceed the criteria
 - Identify SMART outputs and outcomes
 - Milestones (steps) on the way to implementing and delivering their project
 - Assess risks and identify how they (applicants) intend to address/ mitigate them

- Address equal opportunities
 - Clearly define income and expenditure (capital and/or revenue as appropriate), including any other funding sources (confirmed or anticipated)
 - Identify the nature of, and confirm receipt of, all necessary legal/ planning consents.
- 6.8 These can then be used to: evaluate the project against the set criteria; assess its long-term achievements/ performance; monitor and evaluate how the project is progressing.
- 6.9 Officers should request appropriate financial information to support grant applications, which may include a copy of the organisation's accounts, annual report, a recent bank statement or business plan. This can be used to assess the organisation's financial stability, its financial need and its reserves. Where a new organisation is concerned there should be a Business Plan or similar in order to assess viability.
- 6.10 Officers should ensure that grant schemes request that constitutions are submitted with applications in order to confirm compliance with eligibility criteria and to ensure there are no inappropriate/ discriminatory practices.
- 6.11 Third Sector organisations in receipt of grants should generally be expected to have at least two signatories on their bank account and these two signatories should be unrelated.
- 6.12 Officers should ensure that organisations in receipt of funding have provisions in place for monitoring and evaluation. Any specific evaluation requirements or review dates should be agreed with the grant recipient when funding is approved.
- 6.13 Officers should clearly state the following in grant offer letters:
- Any conditions attached to the grant, including publicity
 - The amount and duration of the grants awarded
 - The dates on which payments will be made
 - Clear reasons for any potential reclaim (full or partial) or circumstances in which the council may terminate the funding (for example in the event of unsatisfactory performance)
 - Monitoring/evaluation and overall reporting requirements – including the need for a final end of scheme report
 - The nature and frequency of financial returns
 - The requirement for the applicant to insure any funded major equipment items or buildings.
- 6.14 No grants should be paid out before the receipt of signed and dated acceptance of the grant conditions.

Payments should be made in advance of expenditure where there is a clear need and generally within 30 days of invoices being received.

- 6.15 Recipients of grants should not be permitted to use the grant for any purpose other than that which was initially agreed in the offer letter, without specific written agreement.
- 6.16 At the end of the specified grant duration, officers should obtain explicit signed confirmation from the applicant that the grant money has been used on the agreed scheme/ purpose. In some cases, this can be further confirmed through obtaining the organisations accounts and final scheme reports.
- 6.17 Where capital grants might be awarded (for building works, refurbishments or major pieces of equipment), officers should consider the length of security of tenure that the applicant has over the facility in relation to the amount of grant requested, in order to make an assessment of 'value for money'.
- 6.18 Where capital projects are concerned, it is advised that officers consider establishing eligibility criteria that includes receiving, by the closing date for applications, written confirmation of all necessary legal consents and/ or planning permissions/consents. Furthermore, that the establishment of the need for such permissions, rests solely with the applicant. This avoids unnecessarily tying up funds in projects that may not proceed.
- 6.19 Where capital grants are provided and there is the possibility of a subsequent sale of that facility then officers should consider the insertion of a clause defining a proportional refund of grant related to the number of years of use. Advice should be sought from Legal officers on this matter.
- 6.20 Grants should be awarded in a fair and open manner and without discrimination.
- 6.21 Organisations applying for grants should have an equality and diversity policy or be working towards implementing one.
- 6.22 Where applicants are dealing with children or other vulnerable people, officers should request applicants to confirm they are complying appropriately with relevant policies, legislation and good practice standards, before releasing funds.
- 6.23 Projects that have already commenced (either by action or through commitment in a signed contract), before the application has been considered, should generally be deemed as ineligible for any further consideration. The principle here is that the applicant has already identified sufficient funds to commit themselves and therefore cannot demonstrate financial need. There may in some cases be exceptional circumstances, and these will require officers to identify the specific rationale/s.
- 6.24 Officers should be aware of the Data Protection Act and the Freedom of Information Act when storing, using and/or publishing information about, or received from, applicants.
- 6.25 There should be a clear, transparent assessment process based on the established priority criteria as communicated to applicants. It is good practice for assessments to:

- Include more than one reviewer/ assessor for each application
- Include a register of interests for anyone involved at any stage of the assessment and decision making process to ensure that anyone with an interest in a particular application is not involved in assessment and decisions on that project
- Ensure the final decision maker(s) is/are not involved in the initial assessment process.

6.26 In relation to the monitoring and evaluation of grant-aided projects, it is good practice for officers to:

- Discuss and agree with recipients how outcomes will be monitored as early as possible and before a contract or funding agreement is signed
- Be clear as to why information is being requested and how it will be used
- Work towards monitoring and reporting arrangements which are well coordinated, obtained from existing sources or standardised
- Ensure that monitoring and reporting is appropriate to the nature and value of the grant aid
- Consider how service users can be involved as this helps organisations to focus on service delivery and outcomes and provide a service user led perspective of performance.
- Ensure that monitoring is not discriminatory
- Offer constructive feedback from assessments and monitoring
- Discuss and agree a timetable of actions to improve project delivery if outcomes are not being delivered, before making a decision to end the financial relationship

6.27 In the development and implementation of grant schemes officers should consider:

- Implementing a range of approaches to encourage/ support organisations to make applications, for example running briefing or workshop sessions
- How to allow organisations to appropriately allocate and recover relevant and reasonable overhead costs (refer to the Compact Code)
- Providing feedback to unsuccessful organisations, with an emphasis on learning, as this will help in future applications.

7 DISTRIBUTING GRANTS TO INDIVIDUALS

7.1 Where officers are implementing national/ Government grants initiatives, the requirements of the funding provider should be closely adhered to, unless there are compelling reasons for doing otherwise.

7.2 Council grants schemes that provide individuals should have a set application form to ensure that all requests are assessed on the same information.

7.3 Grants schemes for individuals should have a clear purpose and set eligibility criteria.

- 7.4 Officers should set out the means of establishing need (financial or otherwise), where this is not already set by an external body.
- 7.5 When allocating grants to individuals, officers should clearly identify what the money is to be used for and, if appropriate, should request feedback/ proof of expenditure.
- 7.5 Officers should identify the appropriate complaints and appeals process.
- 7.6 Applications for grants from individuals should be considered in a timely fashion. If the grant scheme has a set deadline then this should be well publicised and adhered to.
- 7.7 Officers should be aware of the Data Protection Act and the Freedom of Information Act when storing, using and/or publishing information about, or received from, applicants.
- 7.8 Officers should not consider awarding grants retrospectively (for money that has already been spent) apart from in exceptional circumstances.
- 7.9 The same principles relating to assessment processes and conflicts of interests as set out in para 6.25 should be followed.

8 FURTHER SUPPORT

- 8.1 The Grants and Partnership Team in Resources are available to provide further support and guidance on many aspects of grants and external funding, including: finding funding; developing projects and ideas; constructing and commenting upon applications; writing /advising on grant criteria; running workshops and training; creating assessment processes and assessing applications.
- 8.2 There are a number of other members of staff who can provide further detailed advice on specific issues, such as VAT, insurance, risk, property or legal issues - the Grants and Partnership Team can 'signpost' to appropriate colleagues.

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Audit & Governance**21 September 2009**

Report of the Director of Resources

International Financial Reporting Standards (IFRS)**Summary**

1. The purpose of this report is to inform members of the implications of the pending introduction of International Financial Reporting Standards (IFRS) and the change in financial reporting from UK General Accepted Accounting Practice (GAAP)
2. In accordance with the Local Authority Accounting Practice (LAAP) Bulletin 80 – Implementation of IFRS - Local Authorities are advised to discuss the implications of IFRS with those responsible for governance arrangements, along with senior management across the organisation and keep those personnel updated throughout the implementation process.

Background

3. IFRS-based financial reporting for the public sector was first introduced in the Chancellor's 2007 Budget report for 2008/09. The 2008 budget report clarified that Central Government and the NHS would be required to adopt IFRS for the production of their 2009/10 annual accounts and that from 2010/11 Local Authorities would prepare their annual accounts in line with IFRS (with comparatives for 2009/10).
4. The introduction of IFRS to the public sector is to
 - a. bring benefits of improved and consistent management information reporting,
 - b. encourage organisations to use a common accounting language,
 - c. allow for better transparency and comparability for financial reporting across the global economy
 - d. follow private sector best practice
5. Private Sector has been using IFRS since 2005 and the Government confirmed that all financial statements of Government Departments and the Public Sector would be prepared using IFRS, adapted as necessary for the public sector.
6. Local Authorities currently report their Statement of Accounts under the Accounts and Audit (England) Regulations 2003 (as amended) in accordance with the Code of Practice - Local Authority Statement of Recommended Practice (the SORP). The SORP complies with UK Generally Accepted Accounting Practice and not IFRS.
7. CIPFA/LASSAC board has released the first IFRS-based Code of Practice on Local Authority Accounting which is currently available for consultation to 11 September 2009. The Code will apply to Local Authority accounting periods starting from 1 April 2010. The transition to IFRS is one of the most important changes to Local Government financial reporting for a number of years.

8. **The transition to IFRS** will affect many areas of the organisation and in addition to influencing financial reporting, could also impact on budgeting, investment decisions, performance targets and may require process and system changes.
9. There have been concerns that the move to IFRS could potentially impact on council tax and housing rents. CIPFA has been in discussions with the Department for Communities and Local Government to ensure any impacts can be minimised, if not avoided, and it is anticipated that any measures / legislation needed to offset any effects of the move to IFRS will be in place in time for authorities to set their 2010/11 budgets. No further information is currently available at this time but it is thought there will be no affect.
10. The impact of many of the IFRS will be presentational with new terminology being introduced and a significant increase in the level of disclosure notes being required in the Statement of Accounts. However, the move to IFRS is also bringing a number of accounting changes in the way information is collated, accounted, reported and processed. Local authorities have already taken significant first steps with the implementation of the IFRS-based financial instruments standards in the 2007/08 accounts.
11. **The IFRS areas of change** to consider during the period of transition for Local Authorities are
 - a. Significant Changes:
 - i. First time adoption
 - ii. Increased disclosure requirements
 - iii. Segmental reporting
 - iv. Private Finance Initiatives
 - v. Leases
 - vi. Assets – Infrastructure, Tangible, Intangible
 - vii. Investment properties
 - viii. Employee benefits
 - ix. Group Accounts
 - b. Medium Priority Changes
 - x. Accounting policies
 - xi. Presentation of Financial Statements
 - xii. Financial Instruments
 - xiii. Government Grants
 - xiv. Income Recognition
 - xv. Impairments
 - c. Minor Changes
 - xvi. Stock (inventory)
 - xvii. Post Balance Sheet events
 - xviii. Related party Transactions
 - xix. Provisions
12. **IFRS implementation** is not being introduced in full until 2010/11, however the need to include comparative information for 2009/10 in the first IFRS-based statement of Accounts means that the effective date of transition is at 1 April 2009 and the 2009/10 accounts will need to be restated in IFRS format.
13. **Early planning and preparation** are essential to ensuring a smooth conversion to IFRS. It is essential that the adoption of IFRS is accepted as an authority wide project. An outline project plan for the successful implementation of IFRS is attached at Annex A. It

details the tasks, progress and dates that need to be achieved for the production of the Statement of Accounts in IFRS format by 30 June 2011. The project plan also highlights the importance of engaging with external Auditors - Audit Commission - on an on-going basis.

14. A project team has been created from staff within Corporate Finance, with individuals having been appointed as project leads to the IFRS significant, medium and minor changes listed in paragraph 10 above. The project team will engage with relevant personnel across the Authority to raise awareness of IFRS and to embed the changes efficiently with effective communication.
15. Further reports will be brought to Audit & Governance Committee to keep Members updated on progress of the project.

Consultation

16. The introduction of IFRS's will require service areas across the authority to engage with the change in accounting regulation. Members will be updated and made aware of the changes in the IFRS financial statement of accounts to be produced by 30 June 2011.

Options

17. It is a statutory requirement to introduce IFRS into local authority accounts for the financial year 2010/11. No alternative option to the recommendation at paragraph 16.

Corporate Priorities

18. Therefore the Authority will need to comply with the IFRS as financial reporting is one of the measures in the Use of Resources score as part of the Comprehensive Area Assessment

Implications

19. The implications are
 - Financial - there are no financial implications to this report as the project work is being undertaken by existing resources. .
 - Human Resources - there are no human resource implications to this report
 - Equalities - there are no equality implications to this report
 - Legal - there are no legal implications to this report
 - Crime and Disorder - there are no crime and disorder implications to this report
 - Information Technology - there are no information technology implications to this report
 - Property - there are no property implications to this report
 - Other - there are no other implications to this report

Risk Management

20. There is a risk to the authority if the Statement of Accounts 2010/11 are not in accordance with IFRS requirements. It is a statutory obligation, with ultimate government action if there is none compliance.

Recommendations

21. That the Audit & Governance Committee note the implications of the introduction of IFRS for Local Government.
22. Reason: The introduction of IFRS to the public sector is to bring benefits of consistency and comparability for financial reporting across the global economy and to follow private sector best practice.

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Ian Floyd
Director of Resources

Report approved Date

Specialist Implications Officer(s) None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of this report

Background Working Papers

IFRS information produced by CIPFA
2008 & 2007 Chancellors Budget report

IFRS Overview Project Plan

| Task | Step / Task | Dependency | Final Date | Progress | Areas for Discussion with External Audit |
|------|---|------------------------------------|--|---|---|
| 1 | Carry out high level impact assessment using information on CIPFA web site (and other resources where available) PFI Leases Tangible Assets Employee Benefits (e.g. Holiday Pay) Other Areas | | 30/09/2009 | See Introductory Report . High level Impact Assessment development continuing. Report to Audit & Governance Committee 21 September 2009, with update progress reports in future | Ongoing – discussions between authority and auditors to inform auditors over project plan, approaches being taken, raise any issues / difficulties etc. = Report on IFRS Implications and progress made to date to Audit & Governance Committee. Meeting with External Audit September 09 to get Audit Commission on Board and have discussion as to progress. |
| 2 | Identify changes to accounting policies | In parallel with step 1 | 30/09/2009 | 1. Accounting Policies, 2. Identification of required changes in specified areas 3. Individual project plans developed, 4. Mapping of required accounting entries, 5. Responsibility allocated and reported to Project Manager - Technical Finance Manager (LBW) | |
| 3 | Identify key staff (finance, legal, property, HR, other) Assess whether resources adequate Allocate responsibilities Develop detailed project plan | Based on impact analysis in step 1 | 31/08/2009 | Identification of Resources & Responsibilities allocated to Project Leads | |
| 4 | Key staff trained on IFRS transition | | At an early opportunity, then ongoing throughout project | FAN Course Durham - attended by RB & AC (20/11/09) CIPFA Course - attended by LBW, RB & AC (01/07/09) HM Treasury - Infrastructure Assets :Roads components with CYC Engineers by RB (15/05/09) FAN Course Durham Asset Components & Leasing - attended by RB (16/07/09) | |
| 5 | Identify systems and procedural changes (including Chart of Accounts changes) required | | 31/10/2009 | See 1 & 3 above for identification of specific areas and responsibilities | |
| 6 | Identify information (e.g. leases, FA, employee benefits etc) required to restate balance sheet for 09/10 accounts. Collation of data from 1/4/09. | | 30/11/2009 | See 1 & 3 above for identification of specific areas and responsibilities | |

| Task | Step / Task | Dependency | Final Date | Progress | Areas for Discussion with External Audit |
|------|---|-------------------------------|------------|---|--|
| 7 | Develop skeleton Statement of Accounts under IFRS (including Notes and Policies) | Accounting policies in step 2 | 31/12/2009 | See 1 & 3 above for identification of specific areas and responsibilities | Ongoing – discussions between authority and auditors to inform auditors over project plan, approaches being taken, raise any issues / difficulties etc. - Meeting end of October 2009 |
| 8 | Obtain information required to restate 1 April 2009 balance sheet | Identified during step 6 | 31/12/2009 | See 1 & 3 above for identification of specific areas and responsibilities | |
| 9 | Identify likely impact on budgets (if any) | | 31/01/2010 | Ongoing discussion with Project Leads and Financial Planning / Service Accountants. Process connected with 2010/11 budget process | |
| 10 | Implement systems and procedural changes | Identified in step 5 | 31/01/2010 | Ongoing through the life of the IFRS Project. Discussion across Corporate Finance Management Team meetings, Across Services Senior Accountant Meetings, information briefings, brain storming sessions etc | |
| 11 | Training for all relevant staff and members | | Ongoing | 1. Corporate Finance to attend relevant course, 2. Members be trained at subsequent A&G following on from September introduction, 3. Meeting held with relevant departments - Property Services, Legal Services & HR. | |
| 12 | Restate 1 April 2009 balance sheet (including reconciliations between UK GAAP and IFRS) | Obtained in steps 7 & 8 | 28/02/2010 | Lead by Project Manager - Technical Finance Manager (LBW)- with discussion from project leads on specified areas | |

Auditors will wish to consider the implications for reviewing balance sheet and / or processes and arrangements - **Meeting January 2009**

| Task | Step / Task | Dependency | Final Date | Progress | Areas for Discussion with External Audit |
|------|---|-------------------------|-----------------------------|--|--|
| 13 | Compile 2010/11 and later budgets on IFRS basis, building on restatement of balance sheet, taking into account changes to the final version of the Code and any regulations proposed by government to mitigate the impact on General Fund / HRA | Impact from step 9 | 28/02/2010 | Lead by JL / AC- keep up to date with IFRS budget requirements and implications on different specified areas | No direct input, but previous discussions and results of any audit work in step 12 may inform budget decisions where auditors involved at early date |
| 14 | Testing of systems and procedural changes | Follows on from step 10 | 15/03/2010 | Ongoing cross working with Corporate Finance, Directorate Accountants, Property Services, Legal Services, HR etc | Auditors will wish to consider the implications for relevant work on systems |
| 15 | Restate 2009/10 accounts in parallel with main 2009/10 accounts process (including reconciliations between UK GAAP and IFRS) | See steps 6, 7, 8, 12 | April 2010 to December 2010 | | Auditors will wish to consider the implications for their work |
| 16 | Produce 2010/11 accounts on IFRS basis | | April 2011 to June 2011 | | Normal audit procedures – accounts signed by 30 September 2011 |

Source Documents: Developed from CIPFA LAAP Bulletin 80 - March 09 - Outline project Plan

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Agenda Item

Audit and Governance Committee

21 September 2009

Report of the Assistant Director of Resources (Customer Service and Governance)

Regulation of Investigatory Powers Act (RIPA) Inspection Outcomes

Summary

- 1 This report advises members of the outcome of Surveillance Commissioner's inspection in June 2009 and the proposed response to the inspector's recommendations. It also informs members of possible changes that might affect the legislation and its use. This forms part of the council's internal control framework and any breach of the legislation would present a significant reputational risk to the council.

Background

- 2 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a legal framework for surveillance and other activity¹ that would otherwise breach a person's right to privacy under the Human Rights Act 1998. The Surveillance Commissioner and the Interception of Communications Commissioner have power to inspect public authorities and to report on compliance with the Act and the Codes of Practice made under it. The Surveillance Commissioner carried out his third inspection at York on 24 June 2009 (there has been none by the Interception of Communications Commissioner).
- 3 The Commissioner's letter stated 'I am pleased to see that good practice is identified in your very comprehensive RIPA Guidance and Procedure document and that you have developed policies and procedures which support confidence in using the legislation'. The inspector's report makes four recommendations for improvement which are addressed below.
- 4 There has been some public debate in the last year on the way local authorities have applied RIPA. The Government is considering changes to the powers available to local authorities and to the Codes of Practice but proposals are not available yet which might affect the response to recommendation 4 below.

¹ RIPA covers directed surveillance, the use of informers formally known as covert human intelligence sources or CHIS, and the collection of communications data. In this report "surveillance" is used to include CHIS as their use is so unusual. Collection of communications data was not within the scope of the inspection although the same principles apply.

RIPA procedure and application

- 5 City of York has a Guidance and Procedure Document to ensure compliance with the Act and its codes. It explains how all surveillance, use of informers, or collection of communications data, must be both necessary and proportionate to the crime prevention or detection which is its purpose. Authorisation is granted by one of a group of senior officers who have had specialist training covering the human rights implications of surveillance.
- 6 This ensures that surveillance is never applied to trivial matters, or the kinds of problems reported in the last year such as schools admissions or dog fouling. In the last two years, City of York authorisations have dealt with crimes in the following categories:

| category | Number of authorisations |
|--|--------------------------|
| Animal health ² | 1 |
| Benefits or other fraud | 5 |
| Child protection | 6 |
| Cowboy builders | 3 |
| Trading standards including fake goods | 12 |

- 7 The power to carry out this work is important to the council's public protection role in these areas. The Government has consulted on possible changes and a response was submitted from City of York emphasising the need to continue with surveillance and the entirely proper way this council has used it.

Options and analysis

- 8 The four recommendations made by the Surveillance Commissioner and proposed action in response are as follows:
- 9 **Recommendation 1:** *Role of Veritau in representing a relevant public authority in accord with Schedule 1 Part 1 of the 2000 Act to be determined.* The inspector is alluding to the transfer of counter-fraud work to Veritau Ltd, which is not itself a public authority as defined in the Act. Advice from Legal Services is that Veritau officers cannot authorise directed surveillance - that is, an intrusion into the privacy of a citizen - under RIPA.

The proposed action is: *to amend the Schedule of Authorised Officers of the RIPA Procedure so that authorisations for any counter-fraud related surveillance, be made by the Assistant Director of Resources (Customer Service and Governance) or in his or her absence, the Director of Resources.*

² Concerning alleged illegal animal movements during the "bluetongue" crisis

This will require them to have undertaken suitable training; see recommendation 4.

- 10 **Recommendation 2:** *Legal Services to take a more pro-active role in dip-sampling of RIPA authorisations for legal compliance purposes.*

The proposed action is: a six-monthly review of all authorisations is to be carried out by a solicitor nominated by the Head of Legal Services and assisted by the RIPA coordinator. An alternative would be dip-sampling but as there are typically only six or so in a period a full review is to be undertaken.

- 11 **Recommendation 3:** *Policy to be drawn-up for the use of private investigation companies acting as agents of the council.*

The proposed action is: this recommendation covers both Veritau Ltd and other investigators who may be used from time to time. Suitable amendments are to be made to the council's Procedure to cover choice of company, contract terms and the management of "product" – the output of the operation.

- 12 **Recommendation 4:** *Refresher training to be arranged for applicants and authorising officers to address compliance issues identified by this inspection visit.*

The proposed action is: immediate training is being arranged for the new authorising officers within Resources, however wider training may be delayed to reflect any imminent changes required by the Government.

Corporate strategy

- 13 Use of RIPA supports the council's law enforcement and public safety functions and so contributes to the following corporate strategy items:

Safer City

Effective Organisation.

Implications

- 14 Financial implications: training for both applicants and authorisers can be arranged for around £2k, plus the officer time needed to take part. This should be incorporated into general investigation training for applicants if possible, and funded from relevant service budgets.
- 15 There are no other legal, HR, IT&T, crime & disorder, equalities, property or other implications arising from this report.

Risk Management

- 16 In addressing the Surveillance Commissioner's report recommendations and in enhancing the procedures the council is managing the risk of misuse of RIPA legislation and of associated reputational risks experienced by other public bodies.

Recommendations

- 17 A&G members are asked to note and support the action proposed by officers to address the inspector’s recommendations contained in paragraphs 9 to 12 above.

Reason: *to ensure continued compliance with RIPA and its Codes of Practice.*

Contact Details

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Chief Officer Responsible for the report:

*Pauline Stuchfield
Assistant Director of Resources (Customer Service
and Governance)*

Report Approved **Date** 8th September 2009

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:*these should be just publically available documents*

RIPA Guidance and Procedure Document V 7.0 (current approved version)

RIPA Guidance and Procedure Document V 8.0 (proposed amended version)

City of York council response to “Consolidating Orders and Codes of Practice - A Public Consultation Paper” (Home Office consultation) (July 2009)

Annex:

none

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Audit & Governance Committee

21 September 2009

Report of the Assistant Director (Customer Service & Governance)

Key Corporate Risk Monitor Quarter 2 2009/10

Summary

- 1 The purpose of this paper is to provide Audit & Governance Committee (A&G) with the quarter two risk monitor for 2009/10 . This consists of a narrative update only, as the content of the monitor is being revised to include the newly identified Key Corporate Risks (KCRs) as described in the body of the report. A full monitor will be supplied at the December meeting of this Committee.

Background

Corporate Risk Refresh

- 2 The KCRs that comprised the current corporate risk register are approximately two years old and were identified at a session of the Corporate Leadership Group (CLG) in September 2007.
- 3 CMT had asked for the KCRs to be refreshed when the last quarterly monitor was presented on 17 June 2009. This work already formed part of the risk management work plan for 2009/10 and a formal risk refresh was undertaken as part of the CLG session on 25 June 2009.
- 4 The session was planned to allow CLG members to consider the validity of the current KCRs and consider new and emerging risks in achieving the priorities set down in the new Corporate Strategy. This was an interactive session with CLG members working to identify risks associated with the themes of the strategy for which they had responsibility, as well as having input across all themes during the prioritisation and feedback session.
- 5 The output of the first part of the session, which focussed on validating the current KCRs and removing those considered to be no longer a priority, is set out at Table 1 below:

Table 1

| Ref | Focus Area Title | Action |
|------|--|-------------------------------------|
| 0001 | Implementation of new pay & grading structure | Remove |
| 0002 | Administration Accommodation review project | Incorporate into 'Capital Projects' |
| 0004 | Impact of setting a balanced budget year on year | Incorporate into 'More for York' |
| 0005 | Delivering the Corporate Strategy | Remove |
| 0006 | Achieving the agreed efficiency programme outcomes | Incorporate into 'More for York' |
| 0007 | Delivery of the Local Area Agreement | Remove |
| 0009 | Co-ordinating significant programmes of change | Incorporate into 'More for York' |
| 0011 | Governance and management of partnerships | Remove |
| 0013 | Improvement Plan | Remove |

- 6 The existing KCRs that CLG chose to retain are set out along with the corporate lead officer at Table 2 below:

Table 2

| Ref | Focus Area Title | Corporate Lead |
|------|---|----------------|
| 0003 | Waste management strategy partnership | Bill Woolley |
| 0008 | Implementation of changes required for new CAA & UoR | Ian Floyd |
| 0010 | Business Continuity (<i>to include specifically Pandemic Flu risks</i>) | Bill Woolley |
| 0012 | Effects of the Economic Downturn | Bill Woolley |

- 7 The second part of the session engaged CLG in identifying and prioritising risks around the themes of the Corporate Strategy. The new areas of risk focus (KCRs) that are to be added to the quarterly monitor in addition to those set out in table 2 along with the corporate lead officer are shown at Table 3 below:

Table 3

| Ref | Focus Area Title | Corporate Lead |
|------------|-------------------------------|-------------------------|
| 0014 | Equal Pay | Ian Floyd |
| 0015 | Fairness & Inclusion | Bill Hodson |
| 0016 | Capital Projects* | Bill Woolley/Pete Dwyer |
| 0017 | More for York | Ian Floyd |
| 0018 | Impact of an Aging population | Bill Hodson |
| 0019 | Safeguarding | Pete Dwyer |

**Includes school modernisation and other individual capital projects identified in the session.*

- 8 Future quarterly monitoring reports to Audit & Governance Committee will provide risk assessment information on the key risks associated with the ten focus areas (KCRs) set out at table 2 & 3 above from December 2009. Assistant Directors nominated by the lead officers will be approached over the next few months to help inform this piece of work and will look to identify the three and certainly no more than five high or critical risks associated with their KCR along with existing controls and any planned future actions aimed at mitigating the risks.

Accommodation Review

- 9 At A&G on 29 June a question was raised in relation to the financial risk to the above project. The monitor indicated this was low however the detailed risk register presented by the team delivering the project had highlighted that achieving the value of the capital receipts required to fund the project was high as a result of the current market conditions. A&G asked for this to be reviewed and the score clarified in time for the quarter 2 risk monitor. The results of this review are set out at Annex B of this report.

Training

- 10 The risk management team put together a training and communication plan on an annual basis as part of the risk management workplan. The plan includes Member training and last year three sessions were delivered during the autumn. It is planned that further training will be delivered this autumn and any A&G member who has not already been on a training course is welcome to attend. Details of the training will be circulated to all A&G members shortly.

Consultation

- 11 Consultation has been undertaken with members of CLG in identifying the new KCRs at their meeting on 25 June 2009 and with CMT on 22 July 2009.

Options

- 12 There are no options applicable to this report.

Corporate Strategy

- 13 The proper consideration and management of risk within all of the council's business processes will aid the successful delivery of each theme within the Corporate Strategy, and contribute to completion of Improvement Plan actions.

Implications

- (a) **Financial** - There are no direct financial implications of this report aside from ongoing management of many of the KCRs may assist the council in managing its Medium Term Financial Plan and pressures.
- (b) **Human Resources (HR)** - There are no implications
- (c) **Equalities** – Better management of Fairness and Inclusion risks will improve the council's position with regards to achieving the Equalities Standard.
- (d) **Legal** - There are no implications
- (e) **Crime and Disorder** - There are no implications
- (f) **Information Technology (IT)** - There are no implications
- (g) **Property** - There are no implications

Risk Management

- 14 This report has been produced in compliance with the council's Risk Management Strategy. The risk associated with the recommendation of this report is "Failure to provide adequate documentation to achieve a level 3 for risk management in CAA UOR" and was originally assessed at a net level of 18 (High).

Recommendations

15 A&G members are asked to:

- a) consider and approve the new risks that will comprise the quarterly KCR monitor as set out at table 2 & 3 and Annex A of this report;

Reason

To provide assurance that risks to the council are continuously reviewed and updated.

- b) consider and comment on the financial risks associated with the accommodation review project Annex B;

Reason

To provide assurance that the risks associated with the financing of the project are well managed.

- c) note the member risk management training to be delivered in the autumn 2009.

Reason

To provide an opportunity for A&G members to attend formal risk management training.

Contact Details

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Pauline Stuchfield
Assistant Director of Customer Service &
Governance

Report Approved

Date

Specialist Implications Officer(s) Not applicable

Wards Affected Not applicable

All

For further information please contact the author of the report

Background Papers

Key Corporate Risk Monitor Quarter 1 2009/10.

Annexes

Annex A – Revised Key Corporate Risks

Annex B – Review of financial risk in relation to accommodation review

Revised Key Corporate Risks

| | |
|---|---|
| KCR 0003 | Waste Management Strategy Partnership |
| Corporate Lead | Bill Woolley |
| <p><i>Financial penalties of failing to manage satisfactory partnership solution to waste agenda. Partnership solution with NYCC introduces risks to the programme from CYC perspective (control, breakdown of effective working, governance etc). Project risks of the partnership have been identified and are being managed by NYCC as the lead body.</i></p> | |
| KCR 0008 | Comprehensive Area Assessment & Use of Resources |
| Corporate Lead | Ian Floyd |
| <p><i>The Comprehensive Area Assessment encompasses a joint risk assessment undertaken by all local services inspectorates and provides an independent assessment of the prospects for local areas and the quality of life for people living there. It looks at the likelihood of local and national priority outcomes being achieved by focusing on those identified in the Sustainable Community Strategy and related documents such as the Local Development Framework and the Local Area Agreement.</i></p> | |
| KCR 0010 | Emergency Planning & Business Continuity |
| Corporate Lead | Bill Woolley |
| <p><i>Business Continuity : - The Council has a statutory duty to have plans in place to ensure the delivery of it's own services continues throughout any disruption to itself or the community. Emergency Planning: - The Council, as a Category 1 responder to critical incidents, has a duty to maintain both generic and specific plans to respond to the risks facing it's community.</i></p> | |
| KCR 0012 | Effects of the Economic Downturn |
| Corporate Lead | Bill Woolley |
| <p><i>The council has a duty to enhance the economic well-being of the City. A number of short term measures have been agreed by the Council to respond to the current economic situation. These will be monitored and any scope for further action considered. In addition, the Council will need to consider the effect of the economic situation on increasing demand for specific services and declining income in some areas.</i></p> | |
| KCR 0014 | Equal Pay |
| Corporate Lead | Ian Floyd |
| <p><i>The Council is in receipt of a number of equal pay claims from individual employees, all of which relate to the legality of the Council's and grading arrangements prior to 1st April 2008 when new arrangements were introduced. The claims all concern the bonus schemes which were in place at the time and claim the schemes were discriminatory on the grounds of sex under the Equal Pay Act. The claims and any potential liabilities are being managed by a multi disciplinary group, lead by HR</i></p> | |
| KCR 0015 | Fairness & Inclusion |
| Corporate Lead | Bill Hodson |
| <p><i>A new, draft Fairness and Inclusion Strategy and Single Equality Scheme for 2009/12 has been approved by the Equalities Leadership Group. This replaces the previous Equalities Strategy (Pride In Our Communities) and Corporate Equality Scheme and also updates the approach in line with the new statutory requirements from April 2009. Both documents have been produced following extensive consultation and engagement with groups and people from the equality strands. The Corporate Equality Scheme includes an action plan which will link into directorate service planning arrangements and the production of Equality Impact Assessments to support service development.</i></p> | |

| | |
|---|---------------------------------------|
| KCR 0016 | Capital Programme |
| Corporate Lead | Bill Woolley |
| <p><i>The Capital Programme delivers a number of capital schemes that directly contribute to the achievement of the Corporate Strategy. All capital schemes are included into the Capital Programme via the annual capital budget process which allocates resources to the projects that facilitate with service delivery and contribute toward the Corporate Strategy. Currently the Capital Programme contains 85 projects over a 5 year period with a budget of over £206m.</i></p> | |
| KCR 0017 | More for York |
| Corporate Lead | Ian Floyd |
| <p><i>The efficiency programme contains a number of projects that, if delivered successfully, will produce millions of pounds of cashable efficiency savings which will support the council's budget, keep council taxes low, improve the quality of services and make them more efficient. The council has set aside an invest to save fund and is also going to work with private sector partner to drive through the change required to deliver these projects. Not delivering this programme of efficiencies will lead to further budget pressures and potential cuts to services rather than making them more efficient.</i></p> | |
| KCR 0018 | Impact of an Ageing Population |
| Corporate Lead | Bill Hodson |
| <p><i>This is a long-term piece of work which will be initiated by an appraisal and a scoping report. The focus will be on the needs and aspirations of older people as citizens, how they will be involved in shaping the city to meet these better in the future and the key challenges facing the council (and the LSP) in responding positively to the change in demography in the city. A report will be brought to CMT scoping what the corporate response should be and setting out proposed actions in 09/10.</i></p> | |
| KCR 0019 | Safeguarding |
| Corporate Lead | Pete Dwyer |
| <p><i>Ensuring that our children and young people in the city are safe and protected has to be a key priority for any authority. This involves not simply ensuring effective interventions into family life but the creation of protective arenas of safety which for example include safe recruitment practice. The individual, organisational and reputational implications of ineffective safeguarding practice are acute.</i></p> | |
| Directorate High & Critical Risks | |
| <p><i>This section is designed to allow Directorate Management Teams to escalate significant risks, not already considered as part of the Key Corporate Risk monitor.</i></p> | |

Accommodation Project

Update on Risks 0274 and 0298

- 1 The accommodation project primarily monitors risk by work stream. The key concerns identified by the Audit & Governance Committee at the last meeting surrounded the low scoring of financial risks to the project. Risk 0274 is a work stream risk and risk 0298 is a global project risk.

Risk 0274 – (Value of property capital receipts obtained are less than the values used in the projects budget) High 16

- 2 This is a property valuation risk and relates to the achievement of the selling price of the properties.
- 3 This is primarily a market risk and one over which we have no control especially over the extended timescales of the project and commercial property market volatility. The risk therefore has to be tolerated even though this has a financial impact on both the timing and amount of the capital receipt
- 4 Mitigating factors include developing planning schemes which maximise the value of the site and, if possible, awaiting for improved market conditions. In the past the project has revised the estimate of the valuations of certain sites to reflect the change in market values since the original estimates.

Risk 0298 – (Project Financial Risk) Low 8

- 5 This is a management control risk relating to the monitoring and control of the project budget. The risk is controlled through budgeting and monitoring controls including regular checkpoint reports and financial reporting to the Project Board (monthly).
- 6 Each work stream manager is responsible for controlling and authorising expenditure of their individual budgets. Any significant deviations in individual work stream budgets are reported via an exception report and revised forward plan approved by the Project Board. Where possible all deviations are managed within the overall project budget. The yearly budget is determined by the accommodation project director and approved by the Project Board at the beginning of each financial year with reference to the planned workload and the overall project budget.
- 7 Controls include the regular monthly monitoring of the budget via the FMS system, and the summary detail is included on the monthly project board report.

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Audit & Governance Committee

21 September 2009

Report of the Democratic Services Manager

The Introduction of a Corporate Approach to Handling Petitions & ePetitions

Summary

1. Further to a request from Audit & Governance Committee in March 2009, this report details how petitions are currently being dealt with across the Council, sets out a potential corporate approach for handling those petitions and proposes the introduction of e-petitioning, i.e. by the public via the internet, in line with legislative changes.

Background

2. At Full Council in November 2008 it was agreed to remove EMAPs from the decision making structure and replace the existing Scrutiny Committees with an increased No. of alternative Scrutiny Committees.
3. A Working Group of Council, made up of one member from each of the political groups, was formed to consider the detailed implementation of the changes agreed at Full Council in November 2008, and the consequential changes required to the Constitution. As part of that review, the Working Group looked at the type of business being presented to Executive Members. They recognised that the reports presented to Executive Members relating to petitions were being handled in a variety of different ways – see **Annex A**. The Working Group agreed that in best practice terms, a corporate approach for handling petitions should be identified and suggested the introduction of a corporate petitions register.
4. At the same time, there was already an ongoing commitment for officers to report back to this Committee on the introduction of ePetitions in response to the Local Democracy, Economic Development and Construction (LDEDC) Bill – further information on the relevant requirements of the Bill is shown at **Annex B**.
5. The Working Group therefore recommended that their suggestion for the introduction of a corporate petitions register be fed into this officer report for Members' consideration.

Consultation

6. A full consultation exercise has taken place across the Council on the proposals within this report. All directors have been consulted on the report and specifically the IT&T team and the Monitoring Officer have been consulted on the legal and IT&T implications associated with e-petitions.

IT&T Consultation – E Petitions

7. In terms of the proposals contained in this report for introducing an e-petitions facility through the existing Committee Management System (Mod Gov), the Head of IT&T suggests that using that option might be the most practical way forward in the immediate future. This is on the basis that the 'e-petition' facility is available now as part of the latest Mod Gov upgrade package, at no extra cost to the Council. After a review period on how effectively the system was working, the Head of IT&T then suggests Members may or may not wish to consider at that point migrating over to the new corporate EDRMS but that would be based on an assessment of work plans and priorities for EDRMS. In any event, if the Mod Gov system were working effectively no change may be necessary.
8. Tracey Carter has suggested that any IT time or investment in the next year or so would only be likely to be agreed if it were considered essential or delivered towards More for York or delivered savings which would be self funding.
9. In response to the IT&T comments:

If the Council were to simply make use of the facility on e-petitions available to it now following the installation of the latest upgrade from Mod Gov (these are provided automatically to the Council as part of the package it initially purchased from Mod Gov), no additional IT&T time would be required to support switching on that facility other than the usual time allocated by IT&T to facilitate Mod Gov upgrades. Details of how the Mod Gov facility would work are set out in the 'analysis' section of the report below.

Directorate Consultation – Corporate Petitions Register

10. No comments have been received from Directors on the proposed processes involved in either establishing a Corporate Petitions Register or an e-petition facility.

Options

11. The following options are available to Members:
 - (i) introduce an E-Petitions facility and Corporate Petitions Register using the Mod Gov CMS at no extra financial cost to the Council from immediate effect;
 - (ii) defer a decision on one or both of these facilities, introducing one or neither now;

- (iii) invite the Head of IT&T and TC to look into more detail about migrating these facilities now with EDRMS, at a potential consequential delay to introducing these measures;
- (iv) introduce no change with practices currently remaining as present and failing to address forthcoming legislative change.

Analysis

12. Current Petition Arrangements and Numbers Received

Annex A sets out the various ways in which petitions are currently handled in the Council. These variable practices came to light during the course of the deliberations of the recent Scrutiny Working Group reporting to Council. The primary route for petitions in to the Council still remains a Member submitting petitions directly to Council with those petitions then being referred to the appropriate Member/Committee for further consideration. In 2007/8, the total number of petitions submitted in this way was 31 (24 being as matters coming under the umbrella of City Strategy Directorate).

However, currently once a petition has been referred by Council to an appropriate Committee etc, the petition is then released to the relevant Directorate for preparation of an appropriate cover report. There is currently, no standard practice in the Council for how these petitions are then presented back to Members, or within what timeframe etc. There is no log of progress with these petitions once they have been referred by Council. Any communication with petitioning Member and petitioners is variable at this stage also.

In addition, to the petitions submitted by Members it is understood that there may currently also be petitions submitted directly to Directorates within the Council. It has not been possible to yet establish how often these arise or how many there may be. Again, there is currently no standard practice for dealing with these should petitions be received within the Council in this way.

One suggested potential solution to this, considered by the Scrutiny Working Group and referred to this Committee for consideration was a Corporate Petitions Register, centrally administered.

13. Introduction of a Corporate Petitions Register

The Scrutiny Working Group considered the number of ways that Directorates were handling petitions which came in directly to them i.e. some were carrying out investigative work before presenting them to the relevant Executive Member and others were presenting them before doing any investigative work and then having to re-present them once that work was completed, making the process lengthy and not necessarily easy to track by the petitioners. They agreed there was a need to regulate the approach in order to ensure an equality in the way that petitions were handled and the time taken to respond to them. The

Working Group therefore recommended the introduction of an on-line Corporate Register to record all petitions received by either Full Council or into a specific Directorate.

14. The electronic Committee Management System administered by Democratic Services could provide the mechanism for doing this and would work as follows:
- Whenever a hard copy petition is received, a responsible officer within the relevant Directorate would forward the petition to the Register Administrator in Democratic Services for submission on to the electronic register.
 - The hard copy petition would be scanned and attached to the entry on the register and made visible on both the intranet and internet.
 - Each entry on the register would identify a senior officer responsible for dealing with the petition (*this should be the manager responsible for the relevant service area*)
 - All new entries would identify the relevant wards in order to generate an email notification to the ward councillors to keep them informed
 - the relevant Executive Member would also receive email notification of a new entry
 - In order to provide the petitioners with a point of contact and information on what actions are to be taken as a result of their petition, the register would:
 - a) record any actions to be carried out as a result of the petition e.g. investigating the issues raised in the petition
 - b) identify an officer responsible for those actions
 - The relevant senior officer would be responsible for the register being regularly updated, in order to provide an audit trail (in the same way that actions arising from committee meetings are updated)
 - The register would contain a number of search mechanisms to enable easy access to information by petitioners/officers/Members/the public.
 - An appropriate timeframe would be established for referral of the petition to Member(s) from receipt by the Council (within 8 weeks)

15. Introducing E petitions

The electronic Committee Management System administered by Democratic Services can also provide the mechanism for submitting ePetitions. The following process outlines how it would work:

- Members of the public submit a request via the Internet for an ePetition to be published on the website. They must log on using an existing self-registered username and password, or register as a new user.
- Members and Officers submit a request via the Intranet for an ePetition to be published on the website. They can log on using their existing username and password.

- The submitter of the ePetition receives an email from Democratic Services advising them that their ePetition request will be reviewed by an ePetition Administrator and they will be kept informed by email of its progress.
- The ePetition Administrators receive an email advising them that a new ePetition request has been submitted.
- An ePetition Administrator will review the ePetition that has been submitted to determine whether it is suitable for publication or whether it requires some amendments before being published.
- An ePetition Administrator will advise the submitter of the ePetition by email of their decision.
- A link to all ongoing ePetitions (and the corporate petitions register) would be visible on both the Council's website homepage and on the intranet homepage. The link would take the viewer to an Petition homepage containing both the register and information on how to submit an ePetition request and how to communicate with the ePetition Administrator whilst they make their decision of whether the ePetition should be published
- Once an ePetition has been published, members of the public can view and sign it on the Internet and Members and Officers can view and sign it on the Intranet.
- The current results of an ePetition are displayed on the Internet and Intranet by count, percentage and graphically.

Other Local Authorities

16. There are a number of other Councils successfully using this ePetitions facility, for example London Borough of Lambeth and Staffordshire County Council. Members may choose to investigate this by looking at their websites - see links below:

<http://www.lambeth.gov.uk/moderngov/mgePetitionListDisplay.aspx?AspxAutoDetectCookieSupport=1>

<http://moderngov.staffordshire.gov.uk/mgEPetitionListDisplay.aspx?AspxAutoDetectCookieSupport=1>

17. Currently, Lambeth have 7 e-petitions underway and Staffordshire County has one. The introduction of e-petitions has not impacted in any way upon the traditional route of Members presenting petitions at Council meetings in either of these authorities. Introducing E-petitions has rather been seen as an additional facility for residents and Members.

18. It is anticipated that the impact in York of introducing e-petitions, based on the current level of hard copy petitions, is likely to be of similar order. It is not envisaged that e-petitions will replace or even reduce the current hard copy

activity. Rather it is seen as an additional facility, which will meet legislative requirements, which are set out in full in Annex B.

Raising Public Awareness

19. In order to successfully introduce and raise the profiles of both a new corporate petitions register and ePetitions facility, the Council may need to carry out a public awareness campaign leading up to their introduction. Information on these new facilities and instructions on their use, would also need to be made available in a number of ways and in the relevant languages, to ensure it is accessible by all of the city's residents.

20. The Marketing & Communication and Equalities teams would be consulted on how best to raise awareness regarding these facilities and contact has been established with the two other local authorities referred to above, currently using the Mod Gov e-petitions facility about how they approached public awareness raising to maximise the potential of the facility best. Lambeth Council did not do any specific marketing around the introduction of E-petitions. They inform their Marketing & Communications team when an e-petition is registered on the Mod Gov site.

Corporate Strategy

21. The introduction of a corporate register for petitions and a facility for ePetitions would provide two new ways for members of the public to get involved in the decision making process, and therefore both would support the Inclusive City theme i.e. 'we will do our best to make sure that all citizens, regardless of race, age, disability, sexual orientation, faith or gender, feel included in the life of York'.

Implications

Corporate Petitions Register

22. There are no **financial, legal, equalities, crime and disorder** or other known implications associated with introducing a Corporate Petitions Register. As outlined in the 'analysis' section above, it is intended to be a log standardising corporate practices, establishing timeframes and maintaining a progress record relating to petitions received in the Council. Contact has been made with the Councils CMS suppliers (Mod Gov) to make sure that the log is available to the Council electronically, at no extra cost, as part of our ongoing developmental upgrade package with Mod Gov. Mod Gov have confirmed the electronic facility is available at no extra cost to the Council. Any technical faults will again be repaired by Mod Gov as part of their support package to the Council.

23. It is suggested in this report that any such Register be administered by Democratic Services since it administers all other Mod Gov facilities and its component parts, e.g. Agenda/reports publication, forward plan, officer decision log, scrutiny topic registration and forward plan.

24. In terms of any **human resource** implications therefore, it is envisaged that the log or register would be updated and maintained by an administrator within the Group as part of their regular duties. Based on the number of petitions received currently, it is not envisaged that the required administrative work will take more than 1-2 hours weekly.

E-Petitions

25. It is envisaged that following implications will arise from introducing E-Petitions:

Financial – Any public awareness campaign referred to in paragraph 14 above would incur some cost and further work would need to be undertaken with the Marketing & Communications & Equalities teams to establish the most appropriate ways of raising awareness, if the Council wished to market or promote E-petitions specifically in any way.

Equalities – there is an initial equalities issue in relation to the suggested public awareness campaign as the information will need to be provided in a number of ways. Once both facilities have been introduced, the instructions for using them will also need to be made available in different languages etc.

Human Resources - the day-to-day administrative application of a ePetitions facility will need to be supported. It is suggested again that initially this should be administered by Democratic Services. This makes some sense, certainly initially, given Democratic Services currently administer the Mod Gov Committee Management System (CMS) as explained above.

Based on the current number of petitions received within the Council and on discussions with other local authorities using the Mod Gov system for E-Petitions, it is anticipated that administration to support this process will be no more than half an hour to an hour weekly.

One small addition to this would be establishing one officer within each Directorate to act as a contact responsible for receiving all petitions initially referred to each Directorate. It is envisaged that this could work in a similar way to the current Forward Plan Contact Officers in Directorates but again, based on the number of petitions presently received, this should not be onerous. No other resource issues are envisaged subject to there being no major increase in the number of petitions received annually (see Annex A for the number of petitions received into Directorates in the municipal year 2007/8).

Legal – The legal requirements of the forthcoming LDEDC Bill are shown at Annex B. The introduction of ePetitions and a Corporate Petitions Register as set out in this report, would enable this Council to meet those requirements.

- a. **Information Technology** – There are no IT implications associated with the recommendations in this report as IT support is already made available through the providers of the electronic Committee Management System and the support required for these 2 new facilities would automatically be included, as indicated by Mod Gov, the Council’s providers.

The only point at which it is envisaged that additional support from the Council’s IT&T team would be necessary, would be at such time if Members decided they preferred to migrate the E-Petitions facility over to the Corporate EDRMS, at which time a proper costed case would need to be made.

- b. There are no known Crime and Disorder, Property or Other implications associated with the recommendations in this report.

Risk Management

26. There are no known risks associated with the recommendations in this report. There are however risks associated with not introducing these new facilities as the incorrect handling of a petition could lead to petitioners not being fairly heard by the Council and the Council would not be providing a service required by forthcoming legislation, in the case of introducing E-Petitions

Recommendations

27. Having considered the information within this report, Members are asked to agree the introduction of the Corporate Petitions Register / suggested ePetitions facility outlined in this report, based on, initially, using the facilities available within the Mod Gov Committee Management System

Reason: In order to comply with the legislative requirements of the forthcoming LDEDC Bill.

Contact Details

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Scrutiny Officer
Scrutiny Services

Chief Officer Responsible for the report:
Quentin Baker
Head of Civic, Democratic & Legal Services

Report Approved



Date 07
September
2009

Specialist Implications Officer(s)

Finance: N/A

Legal: Quentin Baker

Wards Affected:

All



For further information please contact the author of the report

Background Papers: None

Annexes:

Annex A – Relevant Findings of Council Working Group

Annex B – Information on the forthcoming LDEDC Bill

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Scrutiny Restructure Working Group
Meeting Held 4 March 2009

Findings re Petitions

Over the course of the municipal year, a number of the reports requiring an Executive Member decision were as a result of a petition:

Executive Member for City Strategy = 25

Executive Member for Corporate Services = 1

Executive Member for Housing & Adult Social Services = 2

Executive Member for Neighbourhood Services = 3

In regard to the high number for City Strategy, it was not clear how many had been referred by Council and how many had come directly into City Strategy.

In some instances, the associated reports to the EMAPs requested approval for officers to carry out investigative work in relation to the petition, thus requiring a later report back on the findings.

In other cases, officers had already carried out the investigative work and were presenting their findings with recommendations.

A constitutional change to how Council deals with petitions has already been agreed and there is an outstanding commitment to report to Audit & Governance Committee on on-line petitions.

Suggestions

In order to provide a corporate approach for dealing with petitions:

- a corporate register could be set up to record all petitions received and provide an audit trail of what actions were taken as a result.
- The register could be made visible on line so that Members, officers and the public could access the information.
- It may also prove useful to the Scrutiny Committees as it could be used to keep them updated on the petitions submitted by the public, which in turn may generate possible topics for scrutiny review.
- The report to Audit & Governance Committee on on-line petitions could be extended to include how the Council deals with petitions in general and the relevant findings from this scrutiny project and the views of this Working Group could be fed into that process - this would ensure that the Council is equipped to respond to forthcoming new legislation in regard to petitions and provide a mechanism for the new scrutiny committees to be kept informed.

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Local Democracy, Economic Development and Construction (LDEDC) Bill – Proposals on Petitions

The LDEDC Bill currently in Parliament (incorporating issues from the Empowerment White Paper published on 9th July 2008, elements from the sub-national review, and outstanding issues from the Local Government and Public Involvement in Health Act 2007), place duties on principal local authorities in relation to both paper and electronic petitions, and states that there must be a system for dealing with both. It also requires local authorities to respond to petitions that meet certain criteria and make that response publicly available i.e. local authorities must make, publicise and comply with a scheme for petitions and provide a facility for people to make electronic petitions. The scheme for all petitions must be published. The new measures do not apply for existing statutory arrangements such as the petition for a referendum on executive arrangements.

There are a number of duties about time to respond and form of response. Councils must also take steps to respond to petitions related to improvements in the economic, social and environmental well being of the area. There is mention of calling officers to account e.g. chief executive and senior officers required to attend overview and scrutiny when required to do so by a petition with a specified number of signatures. The petition organiser can ask for a petitions response to be referred to overview and scrutiny committee in order to review the council's response to any petition.

The LDEDC Bill also allows Local authorities to set their own threshold number of signatures which would be required to trigger a debate at full council, but must not set this too high. In line with this particular requirement, the Council's Constitution has already been revised to allow for a debate at Council on any petitions with excess of 1,000 signatures.

Following a number of discussions and minor amendments around the petitions elements of the Bill as it passed through the Committee stage in the House of Lords, it is expected that no major amendments in regard to petitions are expected that will materially affect the Bill, which is due to get Royal Assent in Autumn 2009, and is expected to come into force as of 1 April 2010.

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Audit and Governance Committee – 21 September 2009

Report of The Head of Civic, Democratic & Legal Services

Proposal for Constitutional Amendment

Removal of the Shadow Executive from the Formal Decision Making Framework

1. Summary

- 1.1 This report has been prepared at the request of Cllr Gillies under the provisions of Article 16 of the Constitution which set out the procedure to be adopted for proposing changes to the Council's Constitution.
- 1.2 In summary, Cllr Gillies' proposal is that the Shadow Executive should no longer form part of the formal decision making apparatus and all reference to it be removed from the constitution.
- 1.3 The following paragraphs provide some background information for Members' information.

2. Background

- 2.1 Article 16 of the Constitution sets out the procedure to be adopted where a Councillor wishes to propose an amendment to the Constitution. In such cases the councillor is required to consult the Monitoring Officer who will prepare a report for the Audit and Governance Committee who are then required to consider the report and make a recommendation to Full Council¹.
- 2.2 In this case Cllr Gillies wishes to propose that the Shadow Executive, referred to in Part 3C of the Constitution, be formally removed from the constitution and no longer formally recognised as a part of the decision making apparatus of the Council.
- 2.3 As mentioned above the terms of reference for the Shadow Executive is referred to in Part 3 of the Constitution in the following terms,

The Shadow Executive will consist of 7 members of the largest minority political group.

¹ Part 2 Art 16, para 2.3

Its function is to provide a forum for the consideration of Executive and other business. It will offer advice to the Executive on matters of Executive business.

2.4 The existing Shadow Executive is not a committee of the Council and, as such, it has no formal decision making powers. It is described in the Constitution as an advisory panel. In practice the Shadow Executive is provided with copies of Executive papers and provide comments to the Executive.

2.5 A number of resources are deployed by the council to support the operation of the Shadow Executive these include:-

- Democracy Officer time in preparing and circulating agendas and attending meetings and in collating and referring comments to the Executive;
- Officer time in preparing reports requested by the Shadow Executive and their attendance to present the reports;
- The cost of allowances paid to members for their membership of the Shadow Executive, (£21k 2008-09).

2.6 A recent assessment undertaken by DSG staff estimated the DSG officer time involved as 7hrs 10 mins per month consisting of the following:-

Meeting attendance - 40 mins (10 per year)

Agenda/publish - 30min

Minutes - 1/2hrs

Circulate comments - 30min

Request briefing reports/terms of ref/circulate - 30min (can request up to 52 per year and estimate based on using full quota)

Check FP - as and when necessary. 15min

Circulate attendance email (inc cancellations) - 15 min

The majority of this work is done twice a month so for 1 month this would equate to 7hrs 10 mins, that is if all briefing reports were requested.

2.7 In addition to the resources input from the Democratic Services Team other officers from around the council also input time in supporting the Shadow Executive by preparing reports and attending meetings. It has been impossible, in practical terms, to identify the full extent of this resource.

2.8 As for the legal position in relation to Shadow Executives there is no legal requirement to have them and similarly no legal prohibition to a council wishing to establish one.

3 Practice in Other Councils

3.1 In order to establish some data on this question a member of the team conducted a telephone survey of a number of 10 local authorities the results of

which are set out in tabular form below. The authorities were chosen either because they were similar type of authority to City of York or because of their geographical proximity. Although the sample size is relatively small, given the random selection method, we are reasonably confident that the results can be taken as a fair reflection of the larger picture.

SURVEY ON SHADOW EXECUTIVES IN OTHER AUTHORITIES

| Authority | Do you have a 'Formal' Shadow Executive? i.e. part of Constitution/ Structure | Do you have any 'informal' arrangements in place? | Do you pay any allowances for membership? | Do they receive any support from Democracy e.g. minutes taking | General Notes |
|---------------------|---|---|---|--|--|
| Peterborough City | X | ✓ | X | | Group leaders meet on an informal basis |
| Wakefield City | X | ✓ | X | | Leader has agreed that officers assist 'Shadow' when required. |
| Bradford Met Dis | X | X | X | | |
| Doncaster City | X | X | X | | |
| Leeds City | X | X | X | | |
| NYCC | X | X | X | | |
| Hull City | X | ✓ | X | | Some support given at annual budget setting time |
| East Riding | X | X | X | | |
| Scarborough Borough | X | X | X | | |
| Harrogate Borough | X | X | X | | |

Summary

- No formal shadow executive arrangements in place across the 10 authorities covered
- 3 out of the 10 have informal arrangements in place – all fairly low key

3.2 The results indicate that none of the councils within the sample group had a formally constituted Shadow Executive. Three out of the ten had informal arrangements and in these cases the level of resources allocated in support was relatively insignificant.

4 Cllr Gillies' Comments

4.1 New and updated Scrutiny procedures were adopted by the Authority at the start of the Municipal year in May this year. Scrutiny and Overview Committees have now been introduced to cover most statutory and other services delivered by the Council, together with holding the Executive to account. The Scrutiny Management Committee also have the power to establish ad hoc and urgency committees to address additional subjects that may occur.

4.2 All Scrutiny Committees are politically proportionate in line with the overall composition of the council and therefore offer a robust alternative to a Shadow Executive which has no practical purpose under the new arrangement and is therefore redundant. Removing the Shadow Executive releases officer time and cost in addition to the cost of allowances paid to members of the Shadow Executive.

5 Recommendations

5.1 The Audit & Governance Committee is required to advise Full Council as to the proposal being put forward by Cllr Gillies.

5.2 It is recommended that Audit & Governance Committee make one of the following recommendations to full Council:-

Either:-

- a) that Full Council endorse the proposal to remove the Shadow Executive from the Council's Constitution and implement such change with effect from 1 month after the date of the relevant council meeting, or
- b) that Full Council reject Cllr Gillies' proposal to amend the Constitution.

Contact Details

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Author's name:

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Chief Officer's name: *Quentin Baker*

Title: *Monitoring Officer*

Report Approved

Date *12/8/09*

Specialist Implications Officer(s) *None*

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

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Audit and Governance Committee

21 September 2009

Report of The Head of Civic, Democratic & Legal Services

The Local Government Ombudsman's Annual Review Year Ending 31 March 2009

1. Summary

- 1.1 This report highlights the recently received Annual Review from the Local Government Ombudsman which sets out data on complaints against City of York Council that have been processed by the Ombudsman in some way during the 12 Months up to 31st March 2009. The report asks Members to note the information.

2. Background

- 2.1 The Local Government Ombudsman was established by the Local Government Act 1974 and is responsible for investigating complaints of maladministration made against local authorities. The term maladministration is not defined within the legislation itself although it was explained in the House of Commons by Richard Crossman as including:-

“...bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on.”

- 2.2 The above definition emphasises the very broad range of actions which potentially fall within the jurisdiction of the Local Government Ombudsman, (LGO), and this definition was clarified in 2007 to include failures in service and the failure to provide a service which it was the authority's function to provide.
- 2.3 As for potential complainants, only those who can claim to have suffered an injustice as a result of the maladministration or failure of service, or those acting on their behalf, are entitled to lodge a complaint with the LGO. It is also a pre-requisite that the complainant has first exhausted the authority's internal complaints system.
- 2.4 The LGO has a range of options open to it where it has a complaint within jurisdiction including conducting investigations and issuing public reports identifying maladministration. The LGO will often seek to resolve matters by local settlement if that is possible. The LGO shares its reports and data with the Audit Commission for the purposes of audit and inspection.

3 The Annual Report – Headlines

- 3.1 The Annual Review, which is attached as appendix 'A', covers the twelve months up to the 31st March 2009 and contains data in tabular format with comparisons against other authorities and a narrative element. The report notes that during that period the team received fifty seven complaints and enquiries concerning City of York Council, (CYC). Of this twenty eight were forwarded to the investigations team either as new complaints or as resubmitted premature complaints.
- 3.2 As for decisions made during the year, thirty decisions were made during the year and in twelve of these the LGO found no evidence of maladministration. In a further seven cases the LGO used their discretion not to investigate and another four were considered to be outside jurisdiction. Seven cases were decided as local settlement cases where during the course of an investigation the council takes action which is considered by the LGO to be a satisfactory response to the complaint. The report itself describes the circumstances of some of the cases decided as local settlements
- 3.3 The one area of performance in complaint handling that is highlighted as being out of target range is that of the speed in which the council responds to the LGO when it submits enquiries to the council. The response times are recorded as thirty five days on average compared to the target of twenty eight days. The LGO welcomes the improvement in response times in connection with planning and building control matters but notes that response times in housing and anti social behaviour cases could be improved.

4 Further Work

- 4.1 It is noted that many authorities publish their LGO annual reports and I understand that this is not currently the case here at CYC. In the spirit of openness it is suggested that these reports should be made available on the council's website in the pages dealing with complaints. This is technically very easy to achieve.
- 4.2 The council is currently working on developing an new IT based complaints recording system which will assist in the recording and management of complaints.

5 Recommendations

- 5.1 It is hereby recommended that the members of the committee note the content of the LGO Annual Report and endorse the proposal to make this and future reports available on the council's website.

Contact Details

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Author's name:
Quentin Baker

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Chief Officer's name: *Quentin Baker*
Title: *Monitoring Officer*

Title: *Head of Civic Legal and Democratic Services* **Report Approved** **Date**

Tel No. *01904 551004*

Specialist Implications Officer(s) *None*

Wards Affected:

All

For further information please contact the author of the report

Background Papers:-

None

Annexes:

Appendix A: The local Government Ombudsman's Annual Review for City of York Council, year ending 31st March 2009

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Appendix A

Additional Information Regarding LGO Annual Results For Councils With Similarities to CYC.

During the consideration of the report by the Standards Committee at its meeting in August, it was noted that it would be useful for comparative purposes if the report were to contain some information about the LGO stats of other councils similar to CYC in structure and size etc. It was suggested that this would facilitate the contextualisation of the results.

In order to do this we studied the LGO annual stats for a small selection of other unitary councils with similar population sizes and primarily urban in nature, and we have set out below a sample of results from that sample group. Overall the results considered led us to the conclusion that CYC was unremarkable in this regard in that the number of complaints received by the LGO was about the average for this type of authority. However, it should be noted that comparisons between local authorities are problematic due to the fact that no authority is exactly the same.

Sample Annual Information

Over 08/09, City of York Council received a total of 57 complaints and enquiries regarding it's services.

Sunderland City Council is a Unitary authority of similar population to CYC and based in the North East of England. They received a total of 56 complaints in the 08-09 period.

Southampton City Council which is Unitary and similar in size received 59 complaints. Looking at these and a number of other councils led us to conclude that this level of complaints received was broadly average.

In relation to the number of complaints that required settlement; CYC received a total of 7. Once again we found this result to be similar to average finding amongst the comparative LA's Sunderland with 11 settlements and Southampton with 6 settlements.

Whilst studying the results we did come across some extremes in both directions. For example the LGO received 249 complaints in respect of London Borough of Hackney with 53 requiring settlement, a significantly larger number than CYC and the other comparator authorities.

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**The Local Government Ombudsman's
Annual Review
York City Council
for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

Contents of Annual Review

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Section 1: Complaints about York City Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about York City Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received 57 complaints and enquiries during the year. Of these 18 were about issues in the 'Other' category such as antisocial behaviour, licensing, environmental health; 12 were about planning-related matters, eight were in the housing category, and eight concerned transport and highway issues.

We treated 17 of those complaints and enquiries as premature and in a further 12 cases advice was given (usually to make a complaint direct to the Council). The remaining 28 complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 30 complaints against the Council during the year. In 12 of those cases I found no evidence of maladministration. I used my discretion not to investigate a further seven. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In four cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

When we complete an investigation, we generally issue a report. This year we issued no reports against your Council.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority seven were decided as local settlements.

In one case about local taxation the Council failed to respond to a complaint which the complainant first made in September 2007 about her council tax bill and advice about student discounts. She made a further complaint in November 2007 but no action was taken. This led to the bailiffs visiting the complainant in January 2008 and the Council still failed to reply to a further complaint about this. At the same time the Council was also pressurising the complainant to pay more than she could afford towards the arrears. The Council agreed to apply the correct student discount for part of the period concerned which halved the arrears, to offset compensation of £200 against the arrears and to accept £20 per month towards the remainder.

In a planning case, the Council failed to erect a site notice to advertise a planning application for development at the rear of the complainant's property. As a result of this failure she was not aware of the proposals until building work commenced and so lost the opportunity to object. If she had objected the Members of the Planning Committee would have carried out a site visit and considered her objections. In addition the officer's report to the Committee did not address all aspects of the complainant's amenity, including over-dominance and loss of light, so Members did not consider these issues. I concluded that, but for the maladministration the outcome may well have been different but could not conclude that it definitely would have been. The Council agreed to pay the complainant £1000 compensation.

In a third case the complainant lived close to a former airfield which was used for motorsport. Nearby residents had been complaining about noise nuisance for some time. The complainant had asked the Council two specific questions about the unauthorised use of the airfield for motor activities in July 2007 which the Council did not answer. The Council wrote to the complainant with an apology and provided a detailed response to the questions. It also confirmed it would continue to keep residents informed as to progress, about efforts to control the nuisance.

One complaint was about housing repairs, where the Council had delayed for two weeks in repairing a hot water heater leaving the complainants without hot water for this period. The Council promptly offered £115 on receipt of our enquiry letter.

There was one complaint about traffic management where the Council had carried out consultation on its local transport plan with residents affected by proposed changes in traffic management. It had failed to send the consultation documents to the complainant and her immediate neighbours but they had found out about the matter shortly before the consultation period had ended. The Council was also unclear about alterations to local junctions in their area which had already been granted planning permission as part of a nearby major development, but the complainants did not have a significant injustice from this. The Council had already agreed that the consultation document could have been better worded and that it needed to improve its communications. So it had learned from the complaint but it had not apologised to the complainant until the complaint came to us.

The remaining locally settled complaints were about parking, traffic and regeneration and improvement. The Council remedied these seven complaints in ways which I considered was appropriate. It paid a total of £1,490, as well as providing other benefits, to the people affected.

Liaison with the Local Government Ombudsman

We made enquiries on 20 complaints during the year. The Council's average response time of 35.3 days is exactly the same as last year and falls significantly outside our target of 28 days. I welcome the improvement in response times on Planning and building control complaints from 43.3 days to 28.5 days but am disappointed to see that the response times in complaints about housing and antisocial behaviour are over 40 days. I hope the Council can take some positive steps over the coming year to improve its performance in this area.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**J R White
Local Government Ombudsman
The Oaks No 2
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Westwood Business Park
Coventry
CV4 8JB**

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

**J R White
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The Oaks No 2
Westwood Way
Westwood Business Park
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June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

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LGO Advice Team

| Enquiries and complaints received | Adult care services | Children and family services | Education | Housing | Benefits | Public Finance inc. Local Taxation | Planning and building control | Transport and highways | Other | Total |
|---|---------------------|------------------------------|-----------|----------|----------|------------------------------------|-------------------------------|------------------------|-----------|-------|
| Formal/informal premature complaints | 1 | 1 | 0 | 2 | 0 | 1 | 3 | 2 | 7 | 17 |
| Advice given | 0 | 0 | 0 | 3 | 0 | 1 | 1 | 1 | 6 | 12 |
| Forwarded to investigative team (resubmitted prematuress) | 1 | 0 | 0 | 1 | 0 | 0 | 2 | 2 | 0 | 6 |
| Forwarded to investigative team (new) | 1 | 1 | 2 | 2 | 1 | 1 | 6 | 3 | 5 | 22 |
| Total | 3 | 2 | 2 | 8 | 1 | 3 | 12 | 8 | 18 | |

Investigative Team

| Decisions | MI reps | LS | M reps | NM reps | No mal | Omb disc | Outside jurisdiction | | Total |
|-------------------------|---------|----|--------|---------|--------|----------|----------------------|--|-------|
| | | | | | | | | | |
| 01/04/2008 / 31/03/2009 | 0 | 7 | 0 | 0 | 12 | 7 | 4 | | 30 |

Average local authority response times 01/04/2008 to 31/03/2009

| Response times | FIRST ENQUIRIES | |
|------------------------|------------------------|----------------------------|
| | No. of First Enquiries | Avg no. of days to respond |
| 1/04/2008 / 31/03/2009 | 20 | 35.3 |
| 2007 / 2008 | 20 | 35.3 |
| 2006 / 2007 | 35 | 38.7 |

| Types of authority | <= 28 days | | 29 - 35 days | | > = 36 days | |
|---------------------------|------------|-----|--------------|----|-------------|----|
| | | % | | % | | % |
| District councils | 60 | 60 | 20 | 20 | 20 | 20 |
| Unitary authorities | 56 | 56 | 35 | 35 | 9 | 9 |
| Metropolitan authorities | 67 | 67 | 19 | 19 | 14 | 14 |
| County councils | 62 | 62 | 32 | 32 | 6 | 6 |
| London boroughs | 58 | 58 | 27 | 27 | 15 | 15 |
| National park authorities | 100 | 100 | 0 | 0 | 0 | 0 |

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Audit and Governance Committee

21 September 2009

Report of the Assistant Director of Resources (Customer Service & Governance)

Review of the Audit & Governance Committee's Terms of Reference (Articles & Functions)

Summary

1. This paper asks Audit & Governance members to consider the addition of an independent adviser to the Committee as part of a review the Committee's Terms of Reference (TOR) as contained in the council's Constitution (described as Articles and Functions). The outcomes of this review will be reported at the December 2009 meeting of this Committee. The addition of an independent adviser would be in line with best practice set down by CIPFA and recent Audit Commission and CLG Select Committee recommendations in responding to the Icelandic Banking collapse. The current Articles & Functions are contained in the annex to this report.

Background

2. On 19th May 2009, members of the Committee attended a self-assessment session during which there was facilitated discussion around compliance with best practice standards for audit committees (CIPFA's 'Audit Committees - Practical Guidance for Local Authorities'). Part of the discussion focussed on membership and members expressed an interest in recruiting an independent member who could add experience to the Committee and a different perspective and form of challenge.
3. On 11th June the CLG Select Committee published its finding on local authority investments in Icelandic Banks. Annex B summarises the conclusions on local authority member scrutiny arrangements of treasury management, which states that audit committees are best placed to provide this scrutiny and should recruit an independent member to assist in this area. This is likely to emerge in revised CIPFA Codes of Practice for treasury management.
4. Due to provisions contained in the LGA 1972 and LG&HA 1989 the power to co-opt under those provisions does not cover Audit Committees if they have powers such as approval of the accounts. It is advised therefore that an adviser to the Committee on a non-voting basis is considered for appointment.

5. Should Audit & Governance wish to change the composition of the Committee and/or its terms of reference then this will need to be done by way of recommendation to full Council.

Consultation

6. Members of the Committee were initially consulted as part of a self assessment session in May 2009. This report is a continuation of that consultation process.

Options

7. Members can choose to retain the current form of membership for the Committee or consider the inclusion of one or more independent advisers.

Analysis

8. Not relevant for the purpose of the report.

Corporate Priorities

9. This report contributes to the overall effectiveness of the council's governance and assurance arrangements contributing to an 'Effective Organisation'.

Implications

10.
 - (a) **Financial** - There are no implications, unless the advisory position attracts expenses for attendance, but these are likely to be minimal.
 - (b) **Human Resources (HR)** - There are no implications
 - (c) **Equalities** - There are no implications
 - (d) **Legal** - There are no implications
 - (e) **Crime and Disorder** - There are no implications
 - (f) **Information Technology (IT)** - There are no implications
 - (g) **Property** - There are no implications

Risk Management

11. In having no independent challenge within the Audit & Governance Committee, the council may not be seen to have in place adequate scrutiny of its internal control environment and governance arrangements. It will also fail to properly follow best practice requirements, and its Use of Resources score in future CAA assessments could be adversely affected.

Recommendations

12.

- (a) Members note the intention to carry out a review of the Articles and Functions of the Audit & Governance Committee. Any revisions will be presented to the next Committee for onward approval to full Council, including any revisions resulting from recommendation (b) below.

Reason

To ensure the Committee is aware of the work being undertaken and to ensure that a further report is included in the Forward Plan.

- (b) Members consider and agree the addition of one or more independent advisers to the Audit & Governance Committee and the Articles be amended to reflect this requirement.

Reason

To ensure that the composition of the Committee reflects and meet best practice and professional requirements.

Contact Details

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Report Approved

Date 11 September 2009

Specialist Implications Officers

Head of Civic, Democratic & Legal Services

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A - Extract from Constitution Parts 2 and 3C

Annex B – Extract from the CLG Select Committee Report – Local Authority Investments

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Pt 2 Articles of the Constitution(Extract)

ARTICLE 9 - THE AUDIT AND GOVERNANCE COMMITTEE

1 Composition

1.1 The Council will establish an Audit & Governance Committee composed of seven Councillors on a proportionate basis. The Chair of Audit & Governance Committee may not be an Executive or Shadow Executive Member.

2 General Role

2.1 The Audit & Governance Committee is charged with the overall responsibility for governance and will seek to:

(a) ensure the probity, propriety and lawfulness of all activities and transactions effected in the name of the Council;

(b) promote value for money in the use of resources;

(c) help to raise awareness of key aspects of good governance across the organisation, including the role of audit, risk management and effective procurement;

(d) ensure the Council has sufficiently invested in the internal and external audit functions in accordance with legislative requirements on the Council to do so;

(e) protect and promote the independence and rights of both the internal and external audit functions to conduct their work and report on their findings without fear or favour;

(f) liaise as necessary with the Standards Committee on any matter that may be of common concern to both, principally in relation to any matter arising in relation to ethics and/or conduct.

Pt 3C Responsibility for Functions (Extract)

8.1 The functions of the Audit & Governance Committee are:

Audit

1. To consider the annual report and opinion of the Assistant Director (Customer Service & Governance) including a summary of internal and external audit activity (actual and proposed in the relevant accounting period) and the level of assurance that can be given over the corporate governance arrangements at the Council and to advise the Executive accordingly.
2. To consider summaries of specific internal audit reports as scheduled in the forward plan for the Committee or otherwise requested by Members.
3. To consider reports dealing with the management and performance of the Internal and External Audit functions.
4. To consider reports from Internal Audit on agreed recommendations not implemented within agreed timescales.
5. To consider the action plan arising from the Annual Letter of the External Auditor. *With respect to the Annual Letter being first considered and accepted by the Executive.*
6. To consider all other relevant reports from the District Auditor as scheduled in the forward plan for the Committee as agreed with the External Auditor or otherwise requested by Members.
7. To comment on the scope and depth of External Audit work and ensure it provides value for money.
8. 8 To liaise with the Audit Commission over the appointment of the Council's External Audit body.
9. To approve the Annual Plans of the Internal Audit Service and the External Auditor.
10. To commission work from the Internal Audit Service and External Audit with regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee. *Subject to budgetary provision.*
11. To provide advice to the Council on issues arising out of a fraud investigation and report any action which has or ought to be taken by the Council.

Governance & Regulatory

12. To keep under review the Council's contract procedure rules, financial regulations, working protocols and codes of conduct and behaviour (not otherwise reserved to the Standards Committee).
13. To review any relevant issue referred to it by the Chief Executive, S151 Officer, the Assistant Director (Customer Service & Governance), the Monitoring Officer or any other Council body.
14. To consider any reports of the Assistant Director (Customer Service & Governance) referred to the Committee for consideration further to Article 13 of this Constitution.
15. To monitor the effective development and operation of risk management and corporate governance across the Council.
16. To monitor Council policies on 'whistle blowing', the Anti-Fraud & Corruption Strategy and consider any issues referred to it in accordance with the Council's whistle blowing policy and procedures as set out in Part 5 of this Constitution.
17. To oversee the production of the Council's Annual Governance Statement and to recommend its adoption to Full Council. *With respect to the Annual Governance Statement, the Leader's, Chief Executive's, Monitoring Officer's and Section 151 Officer's responsibilities for satisfying themselves with the content and signing on behalf of the Council.*
18. To consider the Council's arrangements for corporate governance and make recommendations about all actions necessary for compliance with best practice to Full Council.
19. To consider the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.
20. To bring to Full Council all proposals for amendment to this Constitution submitted by Members in accordance with this Constitution. *Subject to the advice of the Head of Civic, Democratic and Legal Services.*

Accounts

21. To review the annual statement of accounts and specifically to consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
22. To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

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**Extract from CLG's Select Committee Report – Local Authority Investments
(published 11 June 2009)**

68. We endorse the Minister's suggestion and recommendations by CIPFA and the Audit Commission that all local authorities should have an Audit Committee with specific responsibility for the scrutiny of the treasury management function. Guidance to local authorities to that effect should be given through appropriate amendment to the CIPFA Codes.

69. Members of audit committees need to take their responsibilities for that scrutiny seriously and need to ensure that they are properly trained. The CIPFA Treasury Management Code of Practice should make explicit the need for specific training in treasury management to be undertaken by those councillors with responsibility for overseeing treasury management arrangements, and the Audit Committee should be charged with ensuring that it is available and with monitoring its adequacy.

70. Guidance from CIPFA also notes that it is open to an authority to appoint someone other than an elected member and from outside the authority either to serve on or to chair the audit committee.^[89] The co-option of external members to audit committees in this manner offers an additional opportunity to local authorities to enhance the expertise available to the authority in the scrutiny of its treasury management function, and we encourage all local authorities to consider taking advantage of it.

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