

Meeting	Audit & Governance Committee
Date	4 December 2019
Present	Councillors Fisher (Vice-Chair, in the Chair), Fitzpatrick (Substitute for Cllr Pavlovic), Lomas, Mason (except for Items 11 and 13), D Taylor and Wann Mr Mendus (Independent Member)
Apologies	Councillors Pavlovic (Chair) and Webb Mr Mann (Independent Member)

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### **29. Declarations of Interest**

Members were asked to declare at this point any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda.

Cllr Taylor declared a prejudicial interest in Agenda Items 8 (Settlement Agreements) and 11 (Whistleblowing Update), as he had made a protected disclosure under whistleblowing procedures several years ago, when employed by City of York Council. He left the room during consideration of those items and took no part in the discussions or decisions thereon.

### **30. Minutes**

Resolved: That the minutes of the meeting held on 18 September 2019 be approved and then signed by the Chair as a correct record.

### **31. Public Participation**

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

Gwen Swinburn spoke on internal audit and governance, as matters within the committee's remit. She raised concerns on a number of issues, including the involvement of residents in the review of governance arrangements, the social media policy, the Ombudsman's maladministration findings, the soundness of internal audit procedures and the handling of FOI requests.

### 32. **Monitor 3 2019/20 - Key Corporate Risks**

Members considered a report which presented an update on the council's key corporate risks (KCRs) for the third quarter of 2019/20, as set out in Annex A.

Since the last monitor report in September, changes had been made to KCRs 2 (Governance), 4 (Changing Demographics), 8 (Local Plan), 9 (Communities), 12 (Major Incidents) and 13 (Brexit). A detailed analysis of KCR8 was attached as Annex B, and the Assistant Director of Planning & Public Protection was in attendance to respond to any questions on that. Current gross and net risk ratings of all 13 current KCRs were summarised in Annex C. No risks had been added, removed, increased or reduced since the last monitor.

Members commented as follows on specific risk areas:

- KCR2 – whether the council had real controls in place in respect of Health & Safety monitoring;
- KCR3 (effective and strong partnerships) – the key role of partnerships, especially with the NHS, and the need for further information to be provided on this area;
- KCR7(capital programme) – there had been no update to the committee on major projects since 2017;
- KCR8 – the need to finalise the Local Plan as soon as possible to prevent speculative applications from developers.

Resolved: (i) That the key corporate risks detailed in Annex A and summarised in Annex C be noted.

(ii) That the information provided in Annex B in relation to KCR 8 (Local Plan) be noted.

(iii) That it be noted that the 2019/20 Monitor 4 report will include a detailed analysis of KCR9 (Communities).

(iv) That officers note Members' comments and provide the additional information requested.

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

### 33. Information Governance and Complaints

Members considered a report which provided an update on the council's performance from April 2019 to date on information governance, Information Commissioner's Officer (ICO) decision notices, publication of responses to Freedom of Information (FOI) and Environmental Information Regulations (EIR) requests, and Local Government & Social Care Ombudsman (LGSCO) complaints.

The following points were highlighted in the report and officers' presentation:

- Information governance figures for the first two quarters of the current year (Annex 1) showed improvements in the timeliness of responses across all areas during Quarter 2. Comparative data from previous years was provided in Annex 2, as requested.
- There had been one ICO decision notice in Quarter 2; this was summarised in Annex 3 and attached at Annex 3a. No actions were required; the council had correctly withheld the requested information but had not informed the requester within the timescale set out in the legislation.
- The backlog of FOI and EIR responses reported to the last meeting had been tackled, with responses to the end of July 2019 now published on the council's website. Work was ongoing towards compliance with new accessibility requirements requiring the removal of all pdf files from the site from March 2020.
- Cases concluded by the LGSCO were set out in Annex 4, with details of the decisions and actions recommended. The annual complaint report covering corporate, adult social care and children's social care complaints was available online with the agenda for the Customer & Corporate Services Scrutiny Management Committee meeting held on 11 November 2019.

In response to questions from Members, officers confirmed that:

- The responses backlog had resulted largely from resource issues within the team over the past 8 months;
- Responses were normally published after 2 months, to ensure completion of essential pre-publication work;
- Refusing a request for information was also classed as a response;

- Providing updates to Scrutiny committees could be considered, although duplication of roles should be avoided;
- In respect of the ICO notice, the council had responded to the requester soon after the deadline of 28 working days;
- That deadline could be extended in cases where the complaint was 'complex and voluminous'.

Resolved: That the details contained in the report, and the improved performance levels, be noted.

Reason: To maintain a proper overview of information governance and complaints processes.

#### **34. Mazars Audit Update Report**

Members considered a report which introduced a progress update report from Mazars, the council's external auditors.

The update report was attached as Annex A. Part 1 was a summary of audit progress, which was currently at the planning stage; Part 2 provided information on publications by the National Audit Office. Officers from Mazars were in attendance to present their report and answer any questions. They confirmed that some of the reviews reported as under way had now been completed, with no matters arising.

The Chair highlighted the request for more detailed sector-specific guidance indicated in the responses to consultation on the new Code of Audit Practice (p.88 of Mazars' report) and the need to ensure that reforms to business rates (p.90) were not detrimental to the council's funding.

Resolved: That the matters set out in the Mazars progress report at Annex A be noted.

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

#### **35. Treasury Management Mid-Year Review and Prudential Indicators 2019/20**

Members considered a report which provided an update on Treasury Management activities for the period 1 April to 30

September 2019. This report had also been presented to the Executive meeting on 28 November 2019.

The report, prepared in compliance with CIPFA's Code of Practice on Treasury Management, provided: an economic update for the first part of the 2019/20 financial year; a review of the Treasury Management Strategy Statement and Annual Investment Strategy; the prudential indicators; reviews of the council's investment portfolio and borrowing strategy; and a review of compliance with the Treasury and Prudential Limits.

It was confirmed that during the financial year 2019/20 to date, the council had operated within the treasury limits and Prudential Indicators, as set out in the report and Annex A. The increased cost of borrowing highlighted in paragraph 25 did not affect the council this financial year but would be kept under close review.

Resolved: (i) That the Treasury Management activities to date during 2019/20 be noted.

(ii) That the Prudential Indicators set out in Annex A, and the compliance with all indicators, be noted.

Reason: To ensure the continued performance of the council's Treasury Management function.

### **36. Settlement Agreements**

Members considered a report which informed them of the process to be followed in respect of settlement agreements, as agreed by Staffing Matters & Urgency Committee (SMUC) following the recommendations made by Audit & Governance (A&G) Committee on 6 March 2019.

At their meeting on 5 August, SMUC had agreed with A&G Committee's recommendations and approved changes to the protocol and business case, as attached at Annexes 1 and 2 to the report. The process now would involve consulting the relevant Executive Member in each case, asking them to approve the parameters of the settlement agreement through the business case outlined by the chief officer. If agreed, negotiations would commence. A & G Committee would receive an annual report on the use and cost of settlements.

In response to questions from Members, officers confirmed that:

- Trades unions would be consulted on the process and provided with the documents;
- The independent advice referred to in paragraph 4 of annex 1 would be funded by the council at a rate of £350 +VAT in each case;
- Any breach of an agreement would be referred to the Legal team;
- The first annual report would be brought in April 2020.

Resolved: (i) That the report be noted.

(ii) That Audit & Governance Committee have oversight of the process via receipt of an annual report on the settlement agreements made throughout the year, including their cost.

Reason: To provide assurance and oversight by Members, as agreed by the Staffing Matters & Urgency Committee.

### **37. Audit & Counter Fraud Monitoring Report**

Members considered a report which provided an update on progress towards delivering the council's internal audit work plan for 2019/20 and on current counter-fraud activity.

As of 20 November 2019, internal audit had completed 28% of the 2018/19 audit plan, compared to 15% at the same time last year. It was anticipated that the 93% target would be exceeded by the end of April 2020. Audits completed since the last update were detailed in Annex 1 to the report, agreed variations to the audit plan in Annex 2, and the current status of audits in the plan in Annex 3.

Counter fraud work had been undertaken in accordance with the approved plan and was summarised in Annex 4. Up to 31 October, the team had achieved £212k in savings for the council, against a target of £200k. Successful outcomes had been recorded for 65% of investigations completed.

Members queried the lack of detail provided in respect of internal fraud. Officers explained that this was to avoid disclosure of exempt information that might identify individuals. However, fuller information on categories of cases could be provided in future. With reference to the information requested

at the last meeting (Minute 24 refers), officers advised that the Health & Safety team had confirmed that all the outstanding actions were on course to be completed in time.

Resolved: That the progress made in delivering the 2019/20 internal audit work programme, and on current counter-fraud activity, be noted.

Reason: To confirm that Members have had the opportunity to consider the implications of audit and fraud findings.

### **38. Review of the Audit & Governance Committee Effectiveness**

Members considered a report which sought their views on whether and how to undertake a review of the Audit & Governance Committee's effectiveness.

The last review had been conducted in 2012 and had resulted in a number of changes to the committee's terms of reference and operating arrangements. Options for how the review, if agreed, might be undertaken were set out in paragraph 4 of the report. Postponing the review was also an option.

The Chair queried whether this was the best time to begin a review, in the light of imminent changes at senior officer level. Having discussed the matter, Members

Resolved: That the review, and consideration of options in respect of its conduct, be deferred until the new Director of Governance is in post.

Reason: To enable the new Director to advise on the review from the outset.

### **39. Whistleblowing Update**

Members considered a report which invited them to make their final comments on a proposed new whistleblowing policy for the council.

The final draft policy, attached at Annex 1, included tracked changes showing amendments to the version brought to the committee on 6 February 2019. The amendments had been made in the light of the views expressed at that meeting and the

comments of the Joint Standards Committee task group convened to consider the policy. Subject to any further comments, it would be considered by the council's Corporate Management Team in January prior to its approval by the Chief Executive. Veritau would continue to provide support and would report annually to Audit & Governance Committee on reports made under the policy, and any significant trends and issues raised.

During their debate, Members discussed how the policy could be extended to workers who were not council employees, suggesting that for contractors this could form part of the procurement process. It was confirmed that the council had no power to apply the policy to academies.

- Resolved: (i) That officers be asked to make the following additional amendments to the policy at Annex 1:
- Paragraph 3.5 - remove the words '*much less powerful, and*' from the second sentence;
  - Paragraph 2.2 – clarify how contractors working for the council will be able to use the policy;
  - Paragraph 4.1 – include a reference to contractors raising a concern.
  - Paragraph 5.7 – insert the words '*progress and*' between '*the*' and '*outcomes*' in the final sentence.
- (ii) That the arrangements for the policy to be approved by the Chief Executive, as outlined in the report, be noted.

Reason: In accordance with the committee's responsibility to assess the effectiveness of the council's counter-fraud arrangements, including the whistleblowing policy, and other relevant counter fraud policies and plans.

#### **40. Social Media Policy and Process - a Review**

Members considered a report which described the implementation of the council's social media policy and its impact to date and provided an update on the media protocol, as requested by the committee when they discussed draft versions of these documents on 21 June 2017 (Minute 7 of that meeting refers).

The current versions of the **social media policy and process**, approved by the Chief Executive in April 2018, were available online. These had attracted some comment as to whether they restricted human rights, but the legal position was that they did not. A social media plan had been drafted to manage the council's 81 social media accounts and training had been provided for members and officers on the policy. Corporate sites were monitored, with monthly evaluation reports to the Executive and Chief Officers. The majority of residents used the sites appropriately. In September 2019 a social media panel, chaired by the Corporate Director of Economy & Place, had reviewed accounts that had been blocked for infringing the policy and agreed the actions set out in paragraph 20 of the report. No further accounts had been blocked since then. The **media protocol** had been further updated in October 2019 and published online following Chief Executive approval.

In response to questions from Members, it was confirmed that:

- The Head of Communications was responsible for determining what constituted 'inappropriate' language; an example would be coarse language with a sexual content.
- Nobody had been blocked as a result of comments about individual council officers or their conduct.
- Details of blocked accounts could not be made public, as this would risk revealing information about individuals.
- If an account was blocked, after a year the account holder could appeal and another panel would be convened.

Resolved: (i) That the progress made in implementing the social media policy and process be noted, along with the next steps to be taken, namely to:

- Continue with the implementation of the policy and process and
- Progress a review and implementation of the plan to manage council social media accounts, as set out in paragraph 25 of the report.

(ii) That the progress of the media protocol be noted.

Reason: In accordance with the previous request for an update.

(iii) That Members receive further details of blocked social media accounts as exempt information at the next meeting.

Reason: To provide an oversight of the operation of the social media policy and process.

**41. Audit & Governance Committee Forward Plan to September 2020**

Members considered a plan of reports expected to be presented to future meetings of the committee, up to September 2020.

Resolved: That the plan be approved, subject to the following additions:

- Exempt information in respect of the social media policy (for the meeting on 5 February 2020)
- Annual update on non-disclosure agreements (meeting date tbc).

Reason: So that the committee has a planned programme of work in place, and in response to requests made at the meeting for additional information.

Cllr T Fisher, Chair

[The meeting started at 5.30 pm and finished at 7.08 pm].