
MEETING	AUDIT & GOVERNANCE COMMITTEE
DATE	21 SEPTEMBER 2009
PRESENT	COUNCILLORS B WATSON (CHAIR), BROOKS (VICE-CHAIR), BOWGETT, JAMIESON-BALL, SCOTT AND R WATSON
APOLOGIES	COUNCILLOR KIRK
IN ATTENDANCE	COUNCILLOR MOORE (EXECUTIVE MEMBER FOR CORPORATE SERVICES) STEVE NICKLIN (DISTRICT AUDITOR) ALISTAIR NEWALL (DISTRICT AUDIT)

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

15. 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.

Cllr Scott declared a personal, non prejudicial interest in agenda item 15 (Proposal for Constitutional Amendment: Removal of the Shadow Executive from the Formal Decision Making Framework), as a member of the Shadow Executive but not in receipt of any Special Responsibility Allowance for this role.

16. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of agenda item 13 (Security issues at the Mansion House), on the grounds that it contains information relating to an individual, which 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).

17. MINUTES

RESOLVED: That the minutes of the Audit and Governance Committee meeting held on 29 June 2009 be approved and signed by the Chair as a correct record.

18. PUBLIC PARTICIPATION / OTHER SPEAKERS

With the approval of the Chair, Cllr Galvin, the Lord Mayor, addressed the meeting with reference to agenda item 13 (Security Issues at the Mansion House). He urged Members to support the proposed improvements to

security, in order to fulfil the Council's duty of care to its staff, the Civic party and the historical objects in the Mansion House.

19. AUDIT AND GOVERNANCE COMMITTEE FORWARD PLAN 2009

Members considered a report which presented an indicative rolling forward plan of items expected to be brought to the Committee during the remainder of the 2009/10 municipal year and beyond.

As previously proposed, the number of Committee meetings had been increased to six in each municipal year. Group Leaders had been consulted on this proposal and no objections had been received. The plan, attached as Annex 1 to the report, reflected the deferral of three items from the current meeting to future meetings, as agreed with the Chair and Vice Chair.

Members were invited to approve the plan as drafted or to identify any further items they wished to add. Agreement was also sought on a date for the additional meeting to be held in November to consider the Contract Procedure Rules and the Debt Policy.

RESOLVED: (i) That the Committee's Forward Plan for the period up to July 2010, as set out in Annex 1, be noted and approved.

(ii) That the additional meeting to consider the Contract Procedure Rules and the Debt Policy be held at 5:30 pm on Wednesday, 4 November 2009.

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

20. ANNUAL GOVERNANCE REPORT - AUDIT COMMISSION

Members considered a report which brought to their attention the Audit Commission's Annual Governance Report (AGR) and sought approval for a suggested response and for changes to the 2008/09 Financial Statements. It was noted that the version of the AGR circulated with the agenda at Annex A was incorrect. The correct version had since been published with the agenda on-line and copies had been circulated to Members at the meeting.

The audit of the Council's accounts would continue until the statutory deadline of 30 September. However, during the course of the audit to date a number of material 'non-trivial' mis-statements had been identified, which the Council intended to amend. These were set out in Appendix 2 of the AGR. Mis-statements considered immaterial, and which the Council did not propose to amend, were set out in Appendix 3. The Chair and the Section 151 Officer would be asked to sign a Letter of Representation to confirm this.

The AGR indicated that an unqualified opinion would be given by 30 September, subject to the satisfactory resolution of the material matters

identified. It also acknowledged significant improvements in the process for closing the accounts. However, further improvements would be sought in 2009/10. The AGR contained an Action Plan highlighting areas for improvement, which would be monitored by a Governance Group chaired by the Director of Resources.

RESOLVED: (i) That the matters set out in the Annual Governance Report (AGR) be noted.

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.

(ii) That the action plan arising from the report, as set out in Appendix 5 of the AGR, be noted.

REASON: To ensure that appropriate action is being taken by Officers to address the matters raised by the External Auditor further to his report.

(iii) That approval be given to amend the 2008/09 Statement of Accounts in respect of those items identified in Appendix 2 of the AGR.

(iv) That approval be given not to amend the 2008/09 Statement of Accounts in respect of those items identified in Appendix 3 of the AGR.

(v) That the amended Statement of Accounts 2008/09 be approved.

(vi) That the Letter of Representation be approved for signature by the Chair, on the basis that it sufficiently reflects the views and beliefs of this Committee as those charged with governance at the Council.

REASON: To ensure compliance with International Accounting Standards and relevant legislative requirements.

(vii) That the anticipated receipt of an unqualified Audit Opinion, on both the Statement of Accounts 2008/09 and the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources, be noted.

REASON: To ensure that the Committee is aware of any matters arising from the annual audit of the Statement of Accounts.

(viii) That the improvements to the closure of accounts process in 2008/09 be noted.

21. USE OF RESOURCES 2008/09: AUDIT COMMISSION REPORT

Members considered a report which introduced the Audit Commission's summary of their findings from the Use of Resources Assessment for the financial year 2008/09, now operating within the Comprehensive Area Assessment (CAA) framework.

The Audit Commission's report was attached as Annex A. It concluded that the Council had performed adequately in its use of resources during 2008/09, based upon an overall score of 2. Due to changes in the assessment process, this score was not comparable with the previous year's score of 3. The report highlighted strong performance across a number of Key Lines of Enquiry (KLOEs), in particular the Council's provision of value for money services, risk management arrangements and commissioning of services.

Ongoing improvements would continue to be monitored, where appropriate, through the Council's Improvement Plan and Corporate Strategy, and by the Strategic Officer Governance Group.

In response to questions from Members, the District Auditor confirmed that:

- Comparative information would be included in next year's Assessment;
- Details of the performance of other authorities would be available on the Audit Commission's website towards the end of the year;
- Budget process issues could impact upon more than KLOE area.

RESOLVED: That the report, and the progress the Council is making in addressing the addressing the areas for improvement identified in this and previous reports, be noted.

REASON: To ensure the maintenance of an effective internal control environment at the Council.

22. GRANT CLAIM CERTIFICATION REPORT 2007/08 - AUDIT COMMISSION

Members considered a report which presented the Grant Claim Certification Report for 2007/08 produced by the Audit Commission (GCCR).

The GCCR, attached at Annex 1, reviewed the Council's arrangements for the preparation and administration of grant and subsidy claims. It showed that the Council had been responsible for certifying claims to the value of £142m in 2007/08 and concluded that a general improvement could be demonstrated from the previous year, with fewer claims being subject to amendment and more submission deadlines met. However, it did suggest a number of further specific improvements to the Council's approach.

Following discussions on the review, an action plan had been agreed with the Audit Commission, as set out in Appendix 5 to their report. Corporate Finance would play a key role in ensuring that these actions were

implemented. To promote consistency and ensure adequate quality control, the Technical Finance Manager had been given responsibility for overall co-ordination of grant administration activity within the Council.

In response to concerns raised by Members regarding the late submission of the Sure Start grant claim, Officers confirmed that there had been an improvement this year, although the submission had still been late. The District Auditor agreed that the Council's approach to tackling such issues, by introducing corporate standards, was the correct one.

RESOLVED: (i) That the content of the Grant Claim Certification report 2007/08 be noted.

REASON: To confirm that Members have considered the effectiveness of the Council's grant administration activity, and in particular the areas for improvement identified in the report.

(ii) That the agreed action plan presented in Appendix 5 to the Audit Commission report be noted.

REASON: To confirm that Members are satisfied with the proposed improvement arrangements.

23. EXTERNAL FUNDING/GRANT GUIDANCE MANUAL

Members considered a report which invited them to discuss and comment upon a draft External Funding / Grant Guidance Manual, which would form part of the supplementary guidance to the Financial Regulations.

The draft Manual was attached as Annex A to the report. Its purpose was to establish principles of good practice to underpin an improve the way in which the Council applied for and distributed grants and certified grant expenditure. In this, it sought to address the recommendations of the Audit Commission regarding actions required to improve performance in processing grants claims. Further guidance would be provided by an 'operational' handbook for Officers to be produced by the Grants and Partnership Team within the next 12 months.

Officers confirmed that training on the new Manual would be incorporated into existing grants training and awareness would be raised at senior management level via Departmental and Corporate Management Team meetings.

RESOLVED: That the draft External Funding / Grant Guidance Manual at Annex A to the report be approved.¹

REASON: To ensure that the Council implements improvements to its external funding and grants applications, claims and distribution processes.

Action Required

1. Take steps to include the Guidance Manual in the supplementary guidance to the Financial Regulations

SA

24. INTERNATIONAL FINANCIAL REPORTING STANDARDS

Members considered a report which informed them of the implications of the pending the introduction of the International Financial Reporting Standards (IFRS) to the public sector and the change in financial reporting from UK General Accepted Accounting Practice (GAAP).

The transition to IFRS would affect many areas of the organisation. As well as influencing financial reporting, it could also have an impact upon budgeting, investment decisions and performance targets and might require process and systems changes. Areas of change for local authorities to consider during the transition period were listed in paragraph 11 of the report.

Although IFRS would not be implemented in full until 2010/11, the need to include comparative information for 2009/10 in the first IFRS-based Statement of Accounts meant that the effective date of transition was 1 April 2009.

An outline project plan for successful implementation, including production of the Statement of Accounts in IFRS format by 30 June 2011, was attached at Annex A to the report. A project team had been created from staff within Corporate Finance, to engage with relevant staff across the authority, raise awareness of IFRS and embed the changes efficiently. Further reports would be brought to keep Members updated on the progress of the project.

RESOLVED: That the pending introduction of IFRS for local government be noted.

REASON: So that Members are aware of the purpose of the introduction of IFRS to the public sector, namely to bring the benefits of consistency and comparability for financial reporting across the global economy and to follow private sector best practice.

25. REGULATION OF INVESTIGATORY POWERS (RIPA) INSPECTION OUTCOMES AND ACTIONS

Members considered a report which informed them of the outcome of the Surveillance Commissioner's inspection in June 2009, the Council's proposed response to the Commissioner's recommendations, and possible changes to the relevant legislation.

The Regulation of Investigatory Powers Act 2000 (RIPA) provided a legal framework for surveillance and other activity that would otherwise breach a person's right to privacy under the Human Rights Act 1998. The Commissioner's report praised the policies and procedures developed by the Council for the use of its powers under the Act and identified four recommendations for improvement, as follows:

- Determine the role of Veritau Ltd. in representing a relevant public authority;

- Legal Services to take a more proactive role in dip-sampling of RIPA authorisations;
- Draw up a policy for the use of private investigation companies (including Veritau) as agents;
- Arrange refresher training for applicants and authorising officers.

Actions proposed in response to these recommendations were detailed in paragraphs 9 to 12 of the report.

Following recent public debate about the way in which authorities had applied RIPA, the government was considering changes to the Codes of Practice and the powers available to local authorities. The City of York had responded to consultation on these proposals, emphasising the need to continue with surveillance and the entirely proper way that this Council had used it.

RESOLVED: That the action proposed by Officers to address the inspector's recommendations, as set out in paragraphs 9 to 12 of the report, be noted and supported.¹

REASON: To ensure continued compliance with RIPA and its Codes of Practice.

Action Required

1. Implement the agreed action plan

SA

26. KEY CORPORATE RISK MONITOR - QUARTER 2 2009/10

Members considered a report which provided an update on the Council's corporate risk register for quarter two of the 2009/10 financial year.

The report provided a narrative update only, as the register was being revised to include the six new Key Corporate Risks (KCRs) identified by a formal risk refresh carried out by the Corporate Leadership Group (CLG) on 25 June 2009. These were set out in paragraph 7 of the report. Existing KCRs which the CLG had chosen to retain were set out in paragraph 6. Those which had been removed or incorporated into other KCRs were identified in paragraph 5. Full details of the revised KCRs were provided in Annex A. Further risk management training would be available for Members next January, and not this autumn as stated in the report. Details would be circulated shortly.

In response to Members' request at their last meeting (Minute 7 refers), Annex B to the report provided further information on the financial risks associated with the Accommodation Review Project. In response to Members' questions about whether the project would achieve the £5m savings promised at the outset, Officers explained that the differing elements of the projected savings, some of which would accrue over time due to changes in working practices and some of which related to capital receipts that had not yet been realised, meant that the current position was not certain. However, this did not pose a serious risk to the project and controls were in place to manage the budget, hence the low risk rating.

RESOLVED: (i) That the new risks that will comprise the quarterly KCR monitor, as set out at in the tables at paragraphs 6 and 7 and in Annex A to the report, be noted and approved.¹

REASON: To ensure that risks to the Council are continuously reviewed and updated.

(ii) That the financial risks associated with the Accommodation Review Project, as set out in Annex B, be noted.

REASON: To ensure that the risks associated with the financing of the project are well managed.

(iii) That the Member risk management training to be delivered in autumn 2009 be noted.

REASON: So that Members are aware of the opportunity to attend formal risk management training.

Action Required

1. Incorporate the new KCRs in the risk register

SA

27. MANSION HOUSE SECURITY AND INSURANCE

Members considered a report which responded to their request on 31 March 2009 for further information regarding the security arrangements at the Mansion House (Minute 41 of that meeting refers) and set out some proposed improvements.

The report detailed current security and insurance arrangements, previous capital bids that had been submitted to fund improvements, and potential solutions to issues identified, with estimated costs. The following options were presented for Members' consideration:

A – Insurance arrangements

Option 1 – maintain current insurance levels, as outlined in Annex 1.

Option 2 – ensure all contents are fully covered under an 'all risks' policy.

Option 3 – ensure full cover for selected items in the Civic Collection. This was the preferred option. Officers reported at the meeting that it could be achieved with no increase in current premiums, subject to a security survey.

B – Building / yard security

Option 1 – support those proposed 'stage 1' improvement measures set out in paragraph 13 of the report which can be met from existing budgets.

Option 2 – refer those 'stage 1' measures with budgetary implications to the Executive for consideration.

Option 3 – recommend that a further report on 'stage 2' measures, as outlined in paragraph 14, be submitted to the Executive for future consideration.

Option 4 – take the view that the security risks identified are not significant enough to warrant any improvement measures.

In addition, the report suggested a number of improvements to the security of the building yard etc. that could be made immediately and at little cost. These were detailed in paragraph 14, together with the suggested ‘Stage 2’ measures referred to in Option 3 above.

RESOLVED: (i) That the risks to the Mansion House building and yard area and individuals using or working in the Mansion House be noted and acknowledged.

(ii) That the proposed ‘Stage 1’ improvements detailed in paragraph 14 of the report, to mitigate some of the potential risks at no cost or at a cost that can be contained within existing budgets, be supported.¹

(iii) That it be noted that capital funding up to approximately £9k may be available to effect the minor potential security improvements outlined in the ‘Stage 1’ proposals.

(iv) That with regard to insurance arrangements Option 3 be supported, as set out in paragraph 7.

(v) That the submission of a report to the Executive on the ‘Stage 2’ proposals in paragraph 14, together with any associated costs, be supported.²

REASON: In order to address the potential security issues identified in the report.

Action Required

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| 1. Take steps to implement the Stage 1 improvements | SA |
| 2. Schedule report on Executive Forward Plan | SA |

28. PROPOSAL FOR CONSTITUTIONAL AMENDMENT: REMOVAL OF THE SHADOW EXECUTIVE FROM THE FORMAL DECISION MAKING FRAMEWORK

Members considered a report which presented a proposal by Cllr Gillies to alter the Council’s Constitution so as to remove the Shadow Executive from the decision making process.

The report outlined the current terms of reference for the Shadow Executive, which had no decision making powers but was supported by Officer resources in terms of preparing reports and servicing meetings. There was no legal requirement for the Council to have a such a body and a telephone survey of 10 similar or neighbouring authorities had indicated that none of these authorities had a formally constituted Shadow Executive.

Cllr Gillies' comments in support of his proposal were set out in paragraph 4 of the report. He contended that the Shadow Executive was redundant under the new decision-making procedures, since the Scrutiny committees offered a robust alternative, and that its removal would save officer time and other costs.

Following a full discussion on the content of the report, Cllr R Watson moved, and Cllr Jamieson-Ball seconded, that the proposal be referred to Full Council without any recommendation from this Committee.

Cllr Scott then moved, and Cllr Bowgett seconded, that this motion be amended so as to ask the Monitoring Officer to produce a more detailed report on the potential effects of the proposal and the alternative arrangements operated by other authorities, for consideration at the next ordinary meeting of this Committee, in December 2009, before the matter was referred to Full Council.

The Monitoring Officer then advised that his interpretation of the process set down in the Constitution for the referral of such proposals was that the matter must be referred to Full Council and that the Audit & Governance Committee had no powers to prevent or delay such referral.

A vote was then taken on Cllr Scott's amendment to Cllr R Watson's motion. 3 Members voted for and 3 against the amendment. The Chair used his casting vote to vote for the amendment, which was declared CARRIED. A vote on the motion as amended produced the same result and it was therefore

RESOLVED: That the Monitoring Officer be asked to produce a more detailed report on the potential effects of the proposal and the alternative arrangements operated by other authorities, for consideration at the next ordinary meeting of this Committee, in December 2009, before the matter is referred to Full Council.

REASON: To enable all potential consequences of Cllr Gillies' proposal to be fully examined by this Committee before they make a recommendation to Full Council in respect of the proposal.

29. THE LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL REVIEW YEAR ENDING 31 MARCH 2009

Members considered a report which presented the Annual Review of the Local Government Ombudsman (LGO), setting out data on complaints against City of York Council processed by the LGO during 2008/09.

The report outlined the remit and powers of the LGO in relation to complaints made against local authorities. During 2008/09 the LGO had received 57 complaints concerning City of York Council, of which 28 had been forwarded to the investigations team. 30 decisions had been taken during the year. In twelve cases no evidence of maladministration had

been found and in seven cases the LGO had used their discretion not to investigate. Four cases were considered to be outside the jurisdiction and seven had been decided as local settlements. The only area of performance judged as outside the target range was the speed of the Council's responses to enquiries from the LGO, which was 35 days on average compared to the target of 28 days. Further information comparing York's performance to that of other authorities, as requested by the Standards Committee when they considered the LGO's report 28 August, was attached at Appendix A.

It was suggested that in future the LGO's annual reports be made available on the Council's website, in the pages relating to complaints, as well as being reported to the Standards Committee and the Audit and Governance Committee.

RESOLVED: That the content of the Local Government Ombudsman's report be noted and that the proposal to make this and future reports available on the Council's website be endorsed.¹

REASON: For information, and in the interests of transparency.

Action Required

1. Make the LGO's report available on the Council's website SA

30. REVIEW OF THE AUDIT & GOVERNANCE COMMITTEE'S TERMS OF REFERENCE (ARTICLES & FUNCTIONS)

[See also under Part B Minutes]

Members considered a report which proposed the appointment of an independent adviser to the Audit & Governance Committee, as part of a review of the Committee's Terms of Reference.

Details of the current Terms of Reference, as set out in the Council's Constitution, were attached as Annex A to the report. The addition of an independent adviser would be in line with best practice as set down by CIPFA and recent Audit Commission and CLG Select Committee recommendations responding to the Icelandic Banks collapse.

An extract from the Select Committee report, stating that audit committees should recruit an independent member to assist in their scrutiny of treasury management arrangements, was provided at Annex B. However, co-opted members could not be appointed to audit committees which had power to approve the accounts. It was therefore suggested that one or more independent advisers be appointed for this purpose, on a non-voting basis.

RESOLVED: That the intention to carry out a review of the Articles and Functions of the Audit & Governance Committee, with any revisions to be presented to the next meeting for onward approval to Full Council, be noted.

REASON: So that the Committee is aware of the work being undertaken and to ensure that a further report is included on the work plan.

PART B - MATTERS REFERRED TO COUNCIL

31. THE INTRODUCTION OF A CORPORATE APPROACH TO HANDLING PETITIONS AND E-PETITIONS

Members considered a report which detailed how petitions were currently being dealt with across the Council, set out a potential corporate approach to handling petitions and proposed the introduction of e-petitioning via the internet.

The report had been prepared in response to a referral back by Council of this Committee's recommendation, at their meeting in January 2009 in respect of petitions (Minute 37 of that meeting refers), and to requests made by this Committee on 31 March 2009 (Minute 41 of that meeting refers) and by the Working Group tasked with looking at the detailed implementation of changes to the Council's decision-making structure. It also responded to a requirement in the Local Democracy, Economic Development and Construction (LDEDC) Bill currently before Parliament for local authorities to have a system for dealing with both paper and electronic petitions and to publicise their responses to petitions.

Following consultation with Directors, the IT&T team and the Monitoring Officer, the following options were presented for Members' consideration:

Option 1 – introduce an e-petitions facility and Corporate Petitions Register using the ModGov committee management system (CMS) at no extra cost and with immediate effect. This was the recommended option.

Option 2 – defer a decision on the introduction of one or both these facilities.

Option 3 – invite the Head of IT&T and TC to examine in more detail the migration of these facilities (currently with EDRMS). This would cause delay.

Option 4 – no change to current practice. This would fail to address forthcoming legislative change.

Members commented that the report did not address the issue raised at the Council meeting on 21 January 2009 regarding the definition of 'residents' whose signatures on a petition could trigger a debate at full Council. Officers agreed to bring this information to the next ordinary meeting of the Committee, in December 2009.¹

RECOMMENDED: That Council approve the introduction of a Corporate Petitions Register and e-petitions facility, as outlined in the report, based initially upon using the facilities currently available within the ModGov CMS.

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

Action Required

1. Bring this information to the next meeting

SA

32. REVIEW OF THE AUDIT & GOVERNANCE COMMITTEE'S TERMS OF REFERENCE (ARTICLES & FUNCTIONS)

[See also under Part A Minutes]

Members considered a report which proposed the appointment of an independent adviser to the Audit & Governance Committee, as part of a review of the Committee's Terms of Reference.

Details of the current Terms of Reference, as set out in the Council's Constitution, were attached as Annex A to the report. The addition of an independent adviser would be in line with best practice as set down by CIPFA and recent Audit Commission and CLG Select Committee recommendations responding to the Icelandic Banks collapse.

An extract from the Select Committee report, stating that audit committees should recruit an independent member to assist in their scrutiny of treasury management arrangements, was provided at Annex B. However, co-opted members could not be appointed to audit committees which had power to approve the accounts. It was therefore suggested that one or more independent advisers be appointed for this purpose, on a non-voting basis.

RECOMMENDED: That Council approve the appointment of one independent adviser to the Audit & Governance Committee and that the Articles be amended to reflect this change.

REASON: To ensure that the composition of the Committee reflects and meets best practice and professional requirements.

B Watson, Chair

[The meeting started at 5.30 pm and finished at 8.30 pm].