



To: Councillor Ayre

cc. Councillor Williams
Councillor Steward
Councillor Aspden
Councillor D'Agorne
Councillor King
Kersten England

17th December 2014

Dear Councillor Ayre

Council Motion 9 October 2014

Thank you for asking the LGA to carry out this work. Please find below our report, which is consistent with the emerging findings I presented to the Audit and Governance Committee on 10th December.

The four peers and I would like to acknowledge the open and helpful co-operation of the members and officers that we spoke to. This made our work much easier and the process wholly transparent.

The LGA Review

1. On 9 October the City Council passed the following motion:

“Council notes with concern the results of the Organisational Development Action Plan, in particular the Leadership section and the current position re ‘Concern about the Behaviour of some Members’. This follows last year’s Peer Challenge review which also expressed concern regarding members’ understanding of council priorities and the lack of clarity within the council. Council requests that an independent body be appointed to report back to the Audit and Governance Committee no later than its meeting of 10 December 2014 and that the report is delivered directly to this committee, investigating these concerns and whether Members have acted in a manner which falls below that which staff and residents expect. This report should take into account the personalised politics being exhibited within York by elected members and their supporters – most notably on social media.”

HOW WE DID OUR WORK

2. We assembled a team of experienced peers, overseen by the LGA's regional lead officer Mark Edgell. One peer from each of the 4 LGA political groupings¹ was matched to the appropriate Groups in York, giving the possibility of all members being involved. The 4 peers were:

- Councillor Tudor Evans (Labour), Leader of Plymouth City Council
- Councillor Glen Sanderson (Conservative), LGA Regional Lead Peer and Deputy Leader of Opposition at Northumberland County Council
- Councillor David Faulkner (Liberal Democrat), Newcastle City Council
- Councillor Apu Bagchi (Independent), LGA Regional Lead Peer and Bedford Borough Council.

3. Collectively and individually we met with Group Leaders and others and collected evidence to understand the issues that York Council was encountering, their impacts and other important issues of context around the original motion. The most frequent contact from the peers was via the Group Leaders, but in total peers spoke with more than half the membership of CYC. Mark Edgell also met senior officers at the Council. We did not directly speak to outside "supporters" but heard a range of views from within the Council about their contribution.

4. The fact that the Council had passed the motion demonstrated that there was a widely held view that there were some member behaviour issues that needed addressing. Our fieldwork was intended to understand the issues, triangulate the views and evidence we received and to look beyond the symptoms to assess the underlying causes.

5. We carried out the work faithfully and constructively. Our findings are being reported to you honestly, both in this report and verbally at the Audit and Governance Committee on 10/12/14. It is important to stress that this was not an inspection. This was a focussed and tailored review to meet the terms of the motion. The peer team used their experience and knowledge of local government to reflect on the information presented to them.

WHAT WE FOUND

6. As your corporate peer challenge said in 2013, "York is an exciting place to be and there is clear ambition amongst councillors and officers to do the best for both the people of York and the Council." It is a place with a strong sense of history and identity and passionate members and residents. The Council

¹ (the LGA Independent Group cover all members not part of Labour, Conservative or Liberal Democrat Groups)

has changed political composition at each of the last 3 elections. This has created a challenge for continuity and governance as it brings different priorities and ways of working into play.

7. CYC moved to the Strong Leader² and Cabinet model at the same time as the Council moved from a long period of minority control to three and a half years of majority control. We all agreed that the change from no overall control to a single party administration under the Strong Leader model can often be a difficult transition for opposition parties. Additionally when coupled to challenging financial pressures and a new administration wanting to make its mark, it can severely test relationships and can lead to distraction. In York it has contributed to the perception that the Council has become “more partisan.”

8. There is clearly a real commitment to York and a considerable desire to serve it well, but that passion sometimes overflows into some of your people behaving inappropriately at times.

9. We are clear that the daily local paper, social and other commentators³ outside the Council have an important and legitimate role to play in scrutinising the Council and the use of taxpayers’ money. In some cases, however, the frequency, nature and intensity of comment in, especially, social media has the effect of raising the temperature and adding to a focus on personalities and process rather than just policies (although this is increasingly common in some other localities too).

10. Politicians and officers tell us that they aspire for York to be an effective, open and accessible Council. Indeed there are examples of good practice in this area – such as webcasting meetings. But delivering on this aspiration is impaired by suspicion and an absence of trust between the political parties, with some officers and with some commentators. These issues can affect the morale and confidence of staff and the attitude and commitment of partners. All other things being equal, this will impact on reputation and how well CYC serves its community.

11. The following observations are brigaded under the adjusted headings of an Improvement and Development Agency toolkit looking at attributes and determinants of ethical governance.

Priorities and communication

- We found less focus on Council priorities and strategy to meet York’s significant budget challenge than we expected. This was across all Groups. What we observed and what we were told was the focus has

² As in the definition under the Local Government and Public Involvement in Health Act 2007

³ The Council motion uses the phrase “supporters”, you could also use the term “active citizens,” we use the term “commentators”

been on personalities and ways of working. Members need to be much more engaged on policy.

- The quality and flow of information to non-Cabinet members is felt to be limited or perhaps patchy and inconsistent. This has raised questions from opposition members about whether this situation reflects the will of the Labour Group or the will of officers. Our view was the situation actually arises because people are overworked or unclear about how they should operate and, occasionally, things going wrong.
- The Council has proactively changed the way some decisions are publicly announced, to allow the controlling Group to gain political advantage. This is not unusual and perfectly acceptable. However it would be appropriate for all members to be able to access announcements when they are released to the media
- Access to salmon papers also seems inconsistent. Generally we feel there may be a culture of over-caution.
- There was an example (we only heard of a single example) of a Cabinet member being copied in to emails sent to opposition members, contrary to the Council's member/officer protocol. This is wrong and we saw a clear understanding from officers that this should not happen.
- There are questions over the level and quality of advice from officers to non-Cabinet members. We feel that at least some of this concern is the product of unrealistic expectations about the role of non-Cabinet members in a Strong Leader model. However we are also clear that non-executive councillors deserve proper and appropriate support.
- Many of the issues above have been compounded by the lack of clarity provided by the Council on what "the rules" are, for example on access to information. While we feel the various codes are generally clear, there are questions about awareness of these codes, how they are being applied and how they are being enforced.
- Social media is being extensively used by some members and some outside commentators. The increases openness and accessibility, but has also been a significant platform for "misuse." Indeed the attention paid to social media, from members and, indeed, some officers at the Council is greater than is healthy or constructive. Some people seem to be very sensitive to comment. We suggest it would be a good time for the Council to pause and reflect if the current attention to, and use of, social media is helpful. We are not saying that Twitter etc. should not be used – it is a valuable communication tool – but the current approach is damaging.
- There is an extensive industry in commentators from outside the Council making Fol requests. CYC aspires to be a progressively open and transparent council but the general culture of distrust, compounded

by the closeness of some members, from across the Council, to some outside commentators seems to breed suspicion and theories of conspiracy. This is not to deny the legitimate role of FoI and outside scrutiny, but the current level and nature of FoI requests are a costly and largely unproductive distraction. However this is a situation faced by many public sector bodies.

Accountability

- There appears to be only limited clarity provided over the role of and expectations of members. As a result we heard about issues that had previously been raised through the corporate peer challenge in 2013 of “a perception from some non-executive members, opposition members and communities that they are neither properly informed nor able to influence decision making.” Without clarity over roles and of the decision making process, members’, and others’ expectations about role and support may not be appropriate.
- Linked to this we heard about a lack of support on casework/surgery management and the frustration this can breed.
- Overview and scrutiny is a place where opposition and other non-executive members and indeed communities and outside commentators can play an effective role. But questions were raised with us over whether the support for Overview and Scrutiny is at the right level. We would like to observe that the recent move towards a greater sharing of chairing of overview and scrutiny is to be welcomed.
- All the above issues have, and are, leading to tensions as individual members and groups of members become frustrated over what they see as limited support for the roles they feel accountable for and not attaining what they consider to be the appropriate involvement in policy debate.

Relationships

- There are oases of good relationships. But some relationships between some members are poor. Some stray into being personalised and vindictive. Relationships between members and officers are generally good, but there are patches of them being poor. Relationships between members and the community are generally good, but the perception of behavioural issues at the Council overall risks damaging these.
- It is also worth noting again here that there appear to be close relationships between some councillors, from across the Council, and some outside commentators, some of whom might be considered to be

vexatious complainants. These are seriously damaging culture and relationships within the Council.

- There have been times when some Opposition members have confused officers doing their job (serving a Leader and Cabinet) with an erroneous perception of them being politically biased. This has led to unfortunately adversarial behaviour from some members towards other members and indeed towards officers.
- The accessibility of staff in open plan offices has some significant advantages. But in the current atmosphere also has potential disadvantages. Some members have been accessing inappropriately junior officers to raise and progress issues – either surgery/casework or sensitive strategic issues. In some cases these officers have been mistreated. Some have used the word “bullying.” This is obviously inappropriate and has been compounded by a lack of clarity – in this case on expectations over access to officers. With such clarity, senior officers should be enforcing rules to ensure the open plan does not become an “open house.” We were also told by members that they have heard of staff-to-staff bullying (we understood these matters were being dealt with appropriately by officers).

Leadership, behaviour and styles

- There is a reasonable degree of trust and mutual respect between most senior members and senior officers. This mirrors the findings of the corporate peer challenge in 2013 which said that “the leadership provided by the Leader and Chief Executive is strong and visible and widely commended both internally and externally.”
- There are questions about whether all senior members or officers display and role-model effective and appropriate leadership at all times. For example, has the senior leadership been a catalyst for positive change such as in tackling the member-related issues raised by the previous LGA corporate peer challenge?
- It was suggested to us that some poor behaviour has been particularly targeted against women. It is not apparent that members understand the impact of their behaviour on officers. Members need to consider their role as employers, their duty of care and the well-being of staff. There is suggested to be some trolling of officers. Officer behaviour has in some cases adapted and adjusted negatively, in the face of member behaviour.
- There has been some member reinforcement of good behaviour and challenging of poor behaviour, but this has been patchy. It needs to be happening more consistently. It would appear that some inappropriate behaviour is now being taken for granted, which generates a difficult

working environment and potentially a new (and worse) base from which future poor behaviour will build.

Debate, team working, co-operation and challenge

- We heard of a Task and Finish approach to some issues. For example there has been a member group looking at staff sickness. This is a positive example of cross party working and good practice.
- The ambitious, determined approach from the largest Group, and the way in York, that the Cabinet Portfolio Holders and senior officers work closely together to develop and implement policy is normal throughout local government, but seems to be being misinterpreted. Indeed a lot of what goes on in York in terms of process is "normal". It should not be assumed that it is a conspiracy, or that officers have been politicised if there is close working between the Cabinet and senior officers.
- Debate seems to be often focused on personalities and processes/ways of working rather than policies.
- Officers are sometimes being placed, either wittingly or unwittingly, in the cross-fire of party politics.

Management of standards

- It is clear the Member Code of Conduct is not being adhered to. Some behaviour is seen as hostile and offensive.
- It is entirely possible to be effective politically without needing to attack a person or his or her personality. Many members are not leading by example through role-modelling good behaviour. Alongside this lack of self-discipline, there is only limited active discipline within Groups through, for example, Group Leaders and whips – where they exist. But there is extensive provocation, especially by social media.
- Officers are also not consistently calling out or clamping down on behaviours when they could do (although understandably they may sometimes be nervous of doing so).
- "The standards process" has actually had relatively few complaints about members referred to it – compared to the problems we have heard about. But there is some doubt about whether the process is working as it should. There is also a question of the extent to which the Joint Standards Committee has been proactive (or not) in addressing behavioural issues. We are unclear whether or not it was being chaired independently on member standards issues.

- As already mentioned, alongside the formal standards process for members, CYC are receiving many FoI requests and other complaints, many of which seem to have “standards” or “ethical governance” as the basis for them. Some of these are probably vexatious. A small number of people are submitting large numbers and they will be costly to the Council diverting other resources away from key tasks. The close link between some of these commentators and some individual councillors, from across the Council, should be a concern.

OUR RECOMMENDATIONS

12. The issues we have heard about clearly go across CYC councillors. It is not just in one Group or section of the membership. The fact that Council passed this motion on 9 October should be evidence enough that there is an issue. Indeed the motion demonstrates recognition of the problem, so it is important to capitalise on that. The change of Leader presents an opportunity for the Council to look forward, particularly as the previous Leader could be a polarising figure. This is absolutely not the same as saying any or all fault lies with the previous Leader.

13. We heard from Group Leaders that there is a big appetite for change, and a strong desire to see that change. However for this change to happen there is a need for many people to behave differently in the future. Members have a duty to behave in the best way possible to represent their City. There is an urgent need for this change. A new Leader presents a real opportunity to make it happen.

14. To conclude our review we have a range of linked recommendations. As a way forward we would recommend a three-pronged approach:

- RESET, behaviours from today
- REAFFIRM, and clarify rules, roles and expectations
- REINFORCE the rules and behaviours

15. Our recommendations under these 3 headings are:

Reset

- a. As hard as it will be for some individuals, we urge people to draw a line under the past, look forward and reset behaviours. There must be a willingness from **all** to commit to better ways of working and without any harking back to past issues.
- b. For some of your people a better sense of realism, a less sensitive approach and not such an intense interest in social media will pay dividends. This will allow people to just get on with what is already an incredibly and increasingly challenging job, especially in the current financial climate.

- c. The forthcoming all-out election could act as a further reason to delay putting these behavioural issues right. But we urge the Council to act urgently to reset behaviours and find new ways of working⁴ that will stick for the next 6 months and beyond.

Re-affirm

- d. Clarify the roles of members (and different roles of different members) and officers in the decision making process. This will include visible schemes of delegation. This will help individual members and groups of members to have fair and realistic expectations of their roles.
- e. Clarify rights to receive and access information. Ensure these are then consistently and routinely applied.
- f. Develop your media protocol. This would be partly how and when decisions are communicated inside and outside. But part will be a pause and reflection on the appropriate use of social media. This is not a “whether to use” Twitter etc. question, but rather “how to use” Twitter etc. You may want to consider including the nature of use of social media within the Member Code of Conduct.
- g. Clarify the Council’s values and what they mean for members.
- h. Review the Member Code of Conduct and Member/Officer Protocol; including access to officers.
- i. Agree the appropriate support necessary for the role of members in their wards and neighbourhoods. Consider more-regular briefing for non-Cabinet members. Consider the re-introduction of a nominal budget for ward councillors. Consider the appropriate support for Overview and Scrutiny. Consider a more-effective mechanism for dealing with councillors’ casework/surgeries. Agree routes for councillors to escalate concerns.
- j. Take a look at the number of Fol requests and analyse why you are receiving them. Consider whether the Council is meeting its aspirations to be open and whether it can change the atmosphere around such issues and so reduce outside commentators’ desire or need to submit so many Fol requests.
- k. We would suggest that on recommendations d to k, the Council sets up a cross-party Group to review and develop these protocols, codes, charters and to provide that clarity. This could be done alongside a consideration of the opposition Groups’ paper on governance changes.

⁴ By “ways of working” we mean behaviours. We are not referring to any need for political pacts to stick for 6 months to handle the no overall control

On recommendation j you may wish to include a small number of outside commentators in those discussions.

Re-inforce

- l. Reinforce the new clarity over roles, decisions making process, information, media use, and values through member training, with an expectation that **all** members would attend. This training would be an opportunity for members to remove any ambiguity and to think through how to tackle difficult scenarios. There would be value in undertaking some of this training/development jointly with officers.
 - m. Those in leadership positions, particularly Group Leader and whips (where they exist) need to recognise their particular responsibility, to model good behaviour, to play their role in reaffirming and reinforcing good behaviour and in challenging poor behaviour, particularly by their own members. Members in leading positions need to step up to this role.
 - n. Senior officers being enabled and encouraged to pro-actively support members in enforcing the new standards and to step up to this role.
 - o. For the Standards Committee to consider how to supplement the work of Group Leaders, whips and officers in enforcing behaviour, and also how to work with members outside the influence of whips, such as Independent members. More generally for the Joint Standards Committee to review its way of working.
 - p. Instigate more-regular meetings between Group Leaders where, amongst other issues, progress on some "non-political" issues for the City could be made in a collegiate way.
 - q. Enable and encourage CYC members to visit other Councils to not only pick up ideas for policy and performance in York, but also to see what is normal in terms of governance and behaviour.
 - r. To systematically log recommendations from the 2013 Corporate Peer Challenge, to bring them together into one document alongside (within) the Organisational Development Plan (or other overall improvement plan) and to add the recommendations from this review. Then to ensure they are acted on appropriately and that progress and impact is monitored by a nominated committee.
16. If CYC wishes, the LGA would be happy to come back and help facilitate some of these conversations and provide other support to the Council to help it move forward from now.

Mark Edgell
Local Government Association