



Democratic Governance

City of York Council

Internal Audit Report 2013/14

Business Unit: Customer & Business Support Services,
Responsible Officer: Assistant Director, Governance & ICT
Service Manager: Head of Civic & Democratic Services
Date Issued: 16 December 2013
Status: Final
Reference: 10980/001

	P3	P2	P1
Findings	4	4	0
Overall Audit Opinion	Moderate Assurance		

Summary and Overall Conclusions

Introduction

The government's decentralisation agenda is intended to shift power into the hands of local communities and individuals, so there is increased interest in, and focus on, the democratic and decision making process and its transparency.

Information for the public is published on the council website through the council's committee management system, 'Modgov'. The Democratic Services team administer the Modgov system and directorates submit information to them for publication. Modgov is used to submit forward plan items, produce reports, review minutes, log officer decisions, submit scrutiny topics and track the implementation of actions arising from meetings.

The Democratic Services team play a vital role in the overall governance of the council. They produce agendas and minutes for committee meetings and provide constitutional advice for the council's committees. They promote public engagement with democratic processes and are responsible for ensuring decision making processes comply with legal requirements and are as transparent as possible.

Objectives and Scope of the Audit

The purpose of the audit was to identify any areas of weakness and provide advice on potential areas for improvement in the management of the council's decision making and democratic processes.

The audit covered the following areas:

- the council's compliance with legal and regulatory requirements;
- whether non-legislated committees follow best practice principles of governance, and the extent to which they should do so;
- the extent to which information provided to the public is accessible, transparent, easily understood and promotes open government;
- the council's use of technology and social media and opportunities for more innovative approaches.

The audit included a review of the governance processes for council meetings, ward committees and the Local Strategic Partnership boards. Comparisons were made with other local authorities to identify instances of good practice and to benchmark York against other authorities in terms of the quality of information on its website and via social media and how it is communicated to the public.

Key Findings

The governance of meetings, including publication of agendas, reports and minutes within the required timescales seems to be sound. However, there are a number of weaknesses in the categorisation and recording of decisions. These seem to arise from a lack of clarity and consistency across the council about who can make particular decisions and how they should be published and recorded.

Some sections of the modgov website (the site that supports the management of meetings and decision making), are not up-to-date and information is not well presented to the public. It requires a comprehensive review to improve the clarity of information held and its presentation.

Information relating to meetings of some boards of the Local Strategic Partnership is not available publicly.

Actions have been agreed in the recently issued Freedom of Information audit report to address weaknesses with the publication scheme. There are a number of other actions the council could choose to take to supplement the necessary actions already agreed. These are set out in section 7.

The council seems to have made good use of social media to inform members of the public about its services, actions taken and wider city events. However, it could make improvements in how it seeks to involve people in the democratic process through social media and in being more responsive to members of the public. These are set out in section 8.

Overall Conclusions

Overall, the council's democratic and decision making processes contain sufficient controls to manage risks to a satisfactory level. However, a number of weaknesses have been identified. There are a number of improvements that need to be made to ensure decision making processes, and the recording and publication of these, is fully transparent and easily understood by the public.

It was found that the arrangements for managing risk were satisfactory with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. Our overall opinion of the controls within the system at the time of the audit was that they provided moderate assurance.

In addition, there are further areas of potential improvement that the council could address, depending on the extent to which it chooses to go beyond the minimum legal and regulatory requirements in pro-actively publishing information and in seeking to engage the public in decision making processes and business of the council. This will depend on what it determines to be the benefits that can be gained from these potential improvements and the costs of making and maintaining them.

Area Reviewed: Key decisions

Severity
Probability



1 Issue/ Control Weakness

Risk

There is not a consistent understanding across the organisation of who can and can't make key decisions and under what circumstances.

The council may be open to challenge on key decisions, resulting in decisions being called in, additional officer time being spent on them and delays to the implementation of decisions. The council may also suffer reputational damage from being perceived to have made decisions inappropriately.

Findings

Key decisions are defined in the Council's constitution (part 2, section 4) as:

A decision made in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely to:

- a) result in the Council incurring expenditure, or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates¹; or*
- b) be significant in terms of its effects on communities*

and the constitution (part 4, section 5) states that:

The Cabinet scheme of delegation requires that all Key Decisions are reserved to the Cabinet unless specifically delegated to a Cabinet Member or an officer or where the Leader and Chief Executive are acting in case of urgency.

Conversations with officers throughout the council revealed there was misunderstanding regarding who could and couldn't make key decisions and under what circumstances, if any, they could be made by individual cabinet members or officers.

Decisions have been recorded as 'key decisions' that were not made by cabinet. These include decisions made by individual cabinet members (in both public and private decision sessions) and also some decisions made by officers. Some decisions made by individual cabinet members did not seem to have been specifically delegated by cabinet. Some officer decisions had been specifically delegated to the officer by the individual cabinet member but not by cabinet.

¹ savings or expenditure are significant if they are equal to or greater than £500,000 or equal to or greater than £100,000 where the savings or expenditure exceeds 10% of the budget for the service plan area whichever is the less. Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made as part of the implementation of a decision which itself was a key decision e.g. the award of a contract or where the expenditure is routine expenditure as described in the Contract procedure rules. In order to facilitate the procurement process the Cabinet has specifically delegated to the CFO in consultation with the Monitoring Officer (MO), the authority to approve procurements with values in excess of £500,000 where they are 'Routine' as defined by the Corporate Procurement Guidance Manual.

Some of these decisions that have been recorded as 'key' looked like they should not have been recorded as key decisions as they did not seem to have financial implications of over £500K or be likely to have a 'significant effect on communities'. Some key decisions looked like routine procurement decisions, so could be made by officers under the terms of the constitution. It is not apparent in the details recorded in the decision log whether key decisions were made as routine procurement decisions or had been specifically delegated by cabinet.

1.1 Agreed Action

Constitution

- a) Although the last update of the Constitution endeavoured to clarify who can and can't make key decisions and under what circumstances, as a part of the planned more comprehensive review of the Constitution, the structure of decision making around key decisions will be simplified further.
- b) This work will be supported by communications / training / workshops to ensure requirements are clearly understood by appropriate officers.

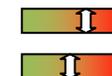
Modgov

- c) The description of the issue being decided on will be amended to explicitly state that key decisions must have been specifically delegated by cabinet or be routine procurement decisions.
- d) Periodic monitoring of the decision log will be undertaken to identify potential anomalies and take appropriate action.

Priority	2
Responsible Officer (a & b)	AD, Governance & ICT
Responsible Officer (c & d)	Head of Civic & Democratic Services
Timescale	May 2014

Area Reviewed: Forward plan & public or private decisions

Severity
Probability



2 Issue/ Control Weakness

Risk

Lack of clarity about whether decisions will be made in public or private.

Insufficient opportunity for public to engage and challenge decisions. This could also potentially give the impression that the council is not fully transparent in its decision making and in receiving representations from the public.

Findings

Key decisions to be made by Cabinet and other significant decisions to be made by individual cabinet members are included on the forward plan. A sample of other authorities' forward plans were compared and most only recorded key decisions so the council is currently recording more upcoming decisions than some other authorities.

For decisions by individual cabinet members, the forward plan includes decisions that will be made in public 'decision session' meetings and those that will be made privately. It is not immediately apparent from the forward plan which decisions will be made publicly and which will be made privately. Therefore, it is difficult for members of the public to work out whether they can attend a meeting to make representations or whether they need to ensure this is done directly to the cabinet member or report author before the period the decision is due to be made.

The plan is available under the 'forward plans' link on modgov but the public may not be familiar with this terminology. Other authorities have links with descriptions such as 'see upcoming decisions' which would be more meaningful to ordinary members of the public.

2.1 Agreed Action

Each cabinet member decision in the forward plan will clearly label whether the decision will be made privately or in a public decision making session.

An explanation will be added to the forward plan pages advising the public that whether a decision will be made publicly or privately is indicated by each item.

Links to the forward plan will be changed to make it clear this is the list of upcoming decisions.

Priority

2

Responsible Officer

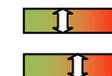
Head of Civic & Democratic Services

Timescale

January 2014

Area Reviewed: Logging officer decisions

Severity
Probability



3 Issue/ Control Weakness

Risk

Inconsistent or insufficient information being published on officer decisions. The council does not meet regulatory requirements for publishing 'executive decisions'.

Findings

The council's current approach is to record more than just key decisions, so it is recording more officer decisions than other authorities. Other authorities' decision logs were compared and the majority only recorded officer decisions when these were key decisions made under delegation from the executive (e.g. procurement decisions).

However, the officer decision log seems to be used inconsistently by different directorates. There is no clear guidance on the circumstances in which an officer decision should be logged and the extent of information that should be published supporting these decisions.

The CES directorate records more information and uses a more formal style than other directorates. However, this may be appropriate because there is likely to be more public interest in these decisions (i.e. regarding changes to traffic regulations, parking areas etc.). CBSS very rarely publish any officer decisions. Again, this may not be inappropriate because of the nature of the decisions but this is difficult to judge because of the lack of clarity about when officer decisions should be published.

Given recent changes in regulations and requirements to publish all 'executive' decisions it seems likely that not enough officer decisions are being recorded by directorates. However, this can only be done if there is more clarity and consistency about when decisions should and shouldn't be published and whether all information should be published with the decision or if it is satisfactory for it to be available on request.

3.1 Agreed Action

Draft guidance on recording officer decisions (and accompanying report) was discussed at the Officer Governance Group (OGG) in October 2013. This guidance will be revised following discussions and comments and, once agreed, the final version will be published on the council website.

Priority

2

Responsible Officer

AD, Governance & ICT

Timescale

May 2014

4 Issue/ Control Weakness Risk

Some information on modgov is not up to date and information within modgov is not fully accessible from the main council website search. Its appearance does not conform with the main website.

The council may suffer reputational damage. Resources may be wasted dealing with enquiries if members of the public cannot find information for themselves.

Findings

The modgov web pages contain a lot of useful information for the public on democratic processes, including calendars of meetings, forward plans of upcoming decisions, agendas, minutes and committee meeting reports and decision logs.

However, there are some of areas of the modgov website that contain out-of-date or misleading information and links that do not work. For example: the 'how to get involved' link and 'weekly planning decision list' (in the officer decision log) do not work; the library section and information reports section contain some very old information; the forward plans section lists all overview and scrutiny committees even though plans are not available for these and lists incorrect membership details under this link.

The modgov website itself looks and feels very different to the main council website. There is an action to improve this on the Democratic Services improvement plan for 2013-14. However, as at September 2013, this has not been progressed.

The search function on the main council website does not produce results from the meeting documents on the modgov web pages. This would be likely to be the first place the public would try to find information on a specific issue so may result in them not being able to find information or believing the council has not made it available.

4.1 Agreed Action

- a) To review and update information within modgov, where necessary, to ensure that information is relevant and current.
- b) To work with the Head of Strategy, Partnerships & Communication to improve the integration of Mod Gov with the main website; to improve the visibility of and access to democratic information
- c) To investigate the feasibility of integrating the Mod Gov search engine with the search function of the main website.

Priority	2
Responsible Officer	Head of Civic & Democratic Services
Timescale	May 2014

Area Reviewed: Meetings and Minutes for WOW Boards

Severity 
Probability 

5 Issue/ Control Weakness Risk

Information on Local Strategic Partnership delivery board meetings is not publicly available. The council suffers reputational damage from not meeting principles of transparency and open government.

Findings

The Council is seen by the public to be the lead partner of the Local Strategic Partnership, York Without Walls (WOW). This consists of a main partnership board and a number of delivery boards that sit below it. Some of these are run by the Council and some are run by other members of the partnership. The Council runs the main partnership board and for this board, timetables of meetings, minutes and supporting documents were available on the website.

The council is also responsible for running the 'Learning City York' and 'Safer York Partnership' boards of the Local Strategic Partnership. For these boards there was no timetable of meetings listed on the York WOW website and the most recent minutes available for each board were from October 2012. In both cases there have been 2 subsequent meetings but the minutes have not been made available on the website. The Learning City minutes that were available did not evidence review and agreement of the minutes of the previous meeting.

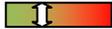
Insufficient information is available for the public, particularly in respect of what meetings are being held and in the publication of the minutes from these meetings. In addition, there was very little available in respect of background documents and papers presented to the boards.

5.1 Agreed Action

The officers responsible for the boards will ensure timetables of meetings are added to the website; all previous minutes are made available on the website; agendas will be published at least 5 working days before meetings and minutes will be added to the York WOW website within 10 days of the meeting.

Priority	3
Responsible Officer (Learning City York)	Learning City York - Partnership Manager
Responsible Officer (Safer York Partnership)	AD, Housing & Community Safety
Timescale	January 2014

Area Reviewed: Annual ward meeting minutes

Severity 
Probability 

6 Issue/ Control Weakness Risk

Minutes of annual ward meetings are unavailable.

The council suffers reputational damage from not meeting principles of transparency and open government and may fail to engage ward residents if they cannot see what has been discussed at ward meetings.

Findings

7 of 18 annual ward meetings (held in April and May) did not have minutes available on the modgov website. Although arrangements for ward meetings have recently changed, and these meetings are now known as 'resident forums', there will remain an important annual meeting under the new arrangements. Previously minutes have been published with the agenda for the next meeting. However, as there are now variable arrangements across different wards and it is often not clear when the next meeting will be this no longer seems appropriate. Therefore, in future minutes should be published within an agreed timescale after the annual meeting.

Further testing of the governance of ward meetings was not undertaken at this time due to the significant changes in the neighbourhood working arrangements and the variability of how and when meetings will be conducted across different wards. These significant changes are acknowledged to need time to implement and embed and the Neighbourhood Management Unit are continually assessing how the new arrangements are working across the different wards.

It is proposed that further review of the governance arrangements for resident forums will take place once new arrangements are more embedded.

6.1 Agreed Action

Minutes for all of the April / May 2013 ward meetings will be published on the modgov website.

Priority

3

In future years, minutes will be available within 10 days of the meetings being held.

Responsible Officer

Head of Communities and Equalities

Timescale

January 2014



7 Issue/ Control Weakness Risk

Information on the council's website is not always easily accessible or well presented to the public. The council may suffer reputational damage and waste resources dealing with enquiries that could be answered on the website.

Findings

Actions have been agreed in the recently issued Freedom of Information audit report relating to weaknesses in the presentation of the publication scheme and publishing information in accordance with the DCLGs code of practice (including: copies of contracts and tenders, grants to the third sector, job descriptions and organizational structure).

Further testing was undertaken in relation to other areas of information, not explicitly included in the DCLGs recent guidance. It was found that, overall, the council is not significantly better or worse than its comparators in making information available to the public and presenting this information on its website. However, there are a number of areas where potential improvements could be made if the council wishes to go beyond the minimum legal and regulatory requirements in pro-actively publishing information and in seeking to engage the public in decision making processes and business of the council. These include:

- The constitution is a very large document and full of detail and language that may make it inaccessible to members of the public, who may only be interested in a few specific areas of how the council operates and makes decisions. The keys parts of the democratic governance of the council could be presented in a format that would be easier for the public to understand and view.
- The constitution is published in 8 separate parts. Although it has a list of contents this makes it difficult to search. It could be published as one document (some authorities publish it as both one document and in its separate parts).
- The Localism Act gives the public the right to challenge how services are delivered but sufficient performance information would need to be produced to properly facilitate their ability to do this. In addition, the general principles of the Localism Act and open government support more detailed and transparent publication of performance information on council services. The council publishes quarterly performance information and council plan priority scorecards but should consider whether it wants to publish more detailed information across all its services. The new architecture for performance management may be an ideal opportunity to address this.
- The council's pages on the community right to challenge do not contain sufficient information about how community groups would do this. Some other authorities have detailed guidance and 'expressions of interest' templates. These pages need to be updated before the next window for expressions of interest (1st March 2014 – 30 April 2014).
- Information on external reviews, assessments and inspections of council services is not easily accessible on the council website.

Information regarding Ofsted and CQC inspections and the recent peer challenge are available but are located within different service pages. These could be available through a prominent link that consolidates all such documents (similar to the recent changes to the presentation of consultations).

- The performance, plans, policies and strategies pages of the website do contain information on some significant policies and strategies. However, other authorities had a consolidated link listing all public facing strategies and policies. These would seem to be a good way to meet the publication scheme requirements to publish information on policies, procedures and priorities.
- The register of gifts and hospitality for members is published on the modgov website. The register of gifts and hospitality for senior officers could also be proactively published on the website, alongside salary and expenses information.

7.1 Agreed Action

The council should consider whether to make any of the changes above and decide to what extent it wishes to go beyond the minimum requirements and be a leading example of openness and transparency.

Priority	3
Responsible Officer	Head of Strategy, Partnerships & Communication
Timescale	January 2014



8 Issue/ Control Weakness Risk

Technology and social media could be used more effectively.

The council does not make best use of technology and social media to engage and inform the public.

Findings

Overall, the council does not seem to lag behind other authorities in use of social media. However, there do seem to be some areas where more could be done to use social media if York wishes to be a leader in this field.

- Democratic processes: limited information is provided regarding meetings and decisions through social media. This doesn't seem unusual as other authorities do not seem to provide any more information than York does. Nevertheless, this is an opportunity to do more to engage the public in meetings and decision making processes. Modgov contains a calendar of upcoming meetings. These could be scheduled to link to Twitter updates to proactively inform members of the public of upcoming meetings (similarly, Tweets could be issued when a new forward plan is published).
- There is currently no noticeboard prominently displayed at West Offices for the display of statutory notices, including notices of public meetings. Temporary arrangements are being made for the display of these notices within the building and at the Guildhall Notice Board until a new, formal, noticeboard is installed at the entrance to West Offices. Customer centre screens could also be used to publicise upcoming meetings or other information that is likely to be of most interest to the public.
- Cabinet meetings are now being webcast as a pilot exercise. Although viewing numbers are relatively low in themselves, they are high compared to the usual levels of public attendance at meetings. The consensus nationally (a number of other council's are doing the same) is that this should be a good way to engage more people in the democratic process. Although this is a positive there are a number of ideas that may improve this:
 - There may be as much or more public interest in Full Council, Planning or Scrutiny committee meetings and webcasting these could also give a more complete picture of how council decisions are made and challenged.
 - The webcasts should be accessible from the meetings area of the website (i.e. modgov).
 - Other councils seem to have had some success (e.g. Birmingham) requesting questions from the public for a webcast meeting (live or in the days before the meeting) that will be directly answered by councillors (though it is recognised this could be time-consuming and sometimes problematic if the council was seen to be censoring certain questions).

- York is generally in line with others in the extent to which it follows and links to other groups but there do seem to be opportunities to more obviously link to other groups in the third sector and other events; the council's website may be the first place many people visit when wanting to find out information about York so it could do more to signpost people to information held elsewhere.
- York seems less responsive to customers on Twitter than some other authorities (this is the main channel used by others for two way communications); although recently there seems to have been an increase in responsiveness.
- It is not clear what the intended purpose of the Facebook page is and whether it will be used for two way communications. There are comments and questions from the public but very rarely answers from the council, which gives a poor impression. If the Facebook page is not used to respond to customers they could be signposted to the alternative methods of communication.

8.1 Agreed Action

The council should consider whether to make any of the changes above, in order to use technology and social media to engage customers more effectively.

Priority

3

Responsible Officer

Head of Strategy,
Partnerships &
Communication

Timescale

January 2014

Audit Opinions and Priorities for Actions

Audit Opinions	
<p>Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.</p> <p>Our overall audit opinion is based on 5 grades of opinion, as set out below.</p>	
Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Moderate assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

Priorities for Actions	
Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.