

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
CORPORATE AND COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

Minutes of the Meeting held on 20 July 2022 at 6.00 pm

Present:-

Cllr L Williams – Chairman

Cllr R Rocca – Vice-Chairman

Present: Cllr S Bartlett, Cllr M Davies, Cllr J Edwards, Cllr N Hedges,
Cllr M Iyengar, Cllr G Farquhar (In place of Cllr L Allison),
Cllr S Moore (In place of Cllr M Earl), Cllr V Slade (In place of Cllr M
Andrews) and Cllr D Kelsey (In place of Cllr H Allen)

20. Apologies

Apologies were received from Cllr H Allen, Cllr L Allison, Cllr M Andrews and Cllr M Earl.

21. Substitute Members

Cllr D Kelsey substituted for Cllr H Allen, Cllr Farquhar substituted for Cllr L Allison, Cllr V Slade substituted for Cllr M Andrews and Cllr S Moore substituted for Cllr M Earl.

22. Declarations of Interests

Cllr S Moore declared for the purpose of transparency that they were currently renting a beach hut in Poole.

23. Public Issues

The Democratic Services Officer advised that there had been no petitions received on this occasion but that there had been five public questions received and five public statements. Members of the public were present to ask their questions and Mr McKinstry was present to make his statement, the other statements were read out by the Democratic Services Officer.

Questions received from Mr Lawrence

1. With millions in Council assets now in opaque SPVs, the BCP is exposed to corruptibility & non-transparency criticisms. While Overview & Scrutiny Committees are undermined by one party domination, its meetings reduced by 75% and diluted into 2 bodies, how can they maintain impartiality, relevance and standards?

Response

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The Overview and Scrutiny Committees are required to be appointed in accordance with the political balance requirements. The allocations determined by Council comply with those requirements.

The Overview and Scrutiny Committee arrangements, as established by the Council, shall operate in line with the following six principles:

1. to contribute to sound decision making in a timely way by holding decision makers to account as a 'critical friend';
2. to be a Councillor led and owned function that seeks to continuously improve through self-reflection and development;
3. to enable the voice and concerns of the public to be heard and reflected in the Council's decision-making process;
4. to engage in decision making and policy development at an appropriate time to be able to have influence;
5. to contribute to and reflect the vision and priorities of the Council; and
6. to be agile and be able to respond to changing and emerging priorities at the right time with flexible working methods.

Regardless of political make-up, an effective Overview and Scrutiny function should be capable of operating to these principles. To further support these principles the Constitution is explicit that the use of the Party Whip is incompatible with the role of Overview and Scrutiny and shall not be used.

It is accepted that there has been a reduction in the number of meetings of Overview and Scrutiny, although I would dispute the quoted percentage reduction. However, pre-Cabinet scrutiny is only one way for non-executive councillors to examine and comment on matters scheduled to be considered by Cabinet. Any councillor may request to attend and speak directly to Cabinet on a matter under consideration at one of their meetings.

The Constitution makes further provision for any of the Overview and Scrutiny Committees to commission work on specific matters including the establishment of Working Groups, Sub-Committees and Task and Finish Groups; convening inquiry days; or the appointment of rapporteurs and scrutiny member champions.

2. If leaders receive substantial directorships and fees, to limit conflicts of interest and restore confidence and integrity, could they be required in councillors' registers of interests?

Response

The Directorship positions held by councillors on council-owned companies are unpaid positions.

The Council's adopted Code of Conduct requires the declaration of registerable interests and is divided into two schedules. The first schedule, referred to as Table 1, requires the disclosure of registerable pecuniary interests as required by regulation under the Localism Act 2011. Table 2 expands on the statutory provisions by requiring all BCP Councillors to disclose 'Other Registerable Interests'. The other registerable interests include the disclosure of 'any unpaid directorships', which for clarity includes those positions held on council-owned companies.

Both Registers are published on the Councillors' main web page under the heading 'Public Registers'

3. Do Committees have sufficient time, resources, authority and independence to restrain any risky and unorthodox ventures to preserve capital receipts for the storms ahead and the needy?

Response

The operational principles of the Overview and Scrutiny committees, as referenced in response to the first question, establish the responsibilities and independence of the respective committees and may establish a forward plan to identify priority areas.

Pre-cabinet scrutiny is only one tool available to hold decision makers to account. As previously advised the Constitution provides for any of the Overview and Scrutiny Committees to commission work on specific matters including the establishment of Working Groups, Sub-Committees and Task and Finish Groups; convening inquiry days; or the appointment of rapporteurs and scrutiny member champions to focus on the priority issues.

Questions received from Mr Parkin

4. In January, after BCP leaders first unveiled their plan to sell BCP's beach huts, Cllr Mellor said of the financial report: "we have done a massively in-depth piece of work with KPMG". When councillors asked to see this report, they were told it was only in "draft form". Then just a few days later Cllr Broadhead claimed on social media: "There is no KPMG Report".

- a) Can you confirm exactly what was the "work" provided by KPMG?

Response

KPMG has supported the work associated with the securitisation of beach hut income. The relevant reports will be made available as part of the pack of information presented alongside the officer report to the Corporate and Community Overview and Scrutiny Committee.

- b) Can you also explain why this report has never been shared with full council or published to date?

Response

It is important that any reports from KPMG are seen in the context of a formal officer report be that to either the Corporate and Community Overview and Scrutiny Committee or Cabinet.

5. The beach huts appear to be sold for around £50m-£54million, yet produce a massive 10% yield. What yield are you expecting by reinvesting this money and from what? Can you please also confirm which company has valued these beach huts and on what basis as the valuation appears very low, and that more than one company has been used to value these assets?

Response

The full details of any potential disposal will be set out as part of the formal report and will include details of the basis of valuation and any amounts. The council has been supported in the valuation exercise by Vail Williams.
Public Statements

Statement received from Mr McKinstry

This scheme to transfer BCP's beach huts to a separate entity is in my view illegal. It's being attempted under FUCR regulations, which were designed to encourage councils to sell surplus assets, not put viable ones to innovative use. Nor would the transfer constitute a "disposal" as required by Section 9 of the Local Government Act 2003. (Far from being disposed of, the assets are being shuffled out of reach for 20 years.) DLUHC has been "reflecting" on BCP's proposals; I hope their opinion matches mine, and that any further creative transactions involving our three towns' assets are strongly discouraged.

Statement received from Mr Tallamy

My statement is based on my views as a bewildered BCP resident. Bewildered by the mixed messages presented by the leaders and the lack of openness and transparency shown to councillors and residents. Is there a KPMG report or not, has the Government approved the legitimacy and fiscal validity of the Beach Hut scheme, if not what are the ongoing discussions with Government Ministers? Surely the legalities etc.. should have been finalised before the scheme was announced rather than how it has been, causing concerns and often heated debates across the BCP conurbation

Statement received from Mr Chapmanlaw

I'd like to see the advice the Leader supposedly received from KPMG regarding the beach hut scheme. On 9 February, Cllr Howell asked to see this advice and the Leader said the report would come to full Council. The report, or draft report as it was then described, was not however produced at Council on 22 February and still hasn't been produced five months later, not even for this scrutiny meeting. The Leader continually criticises the Unity Alliance for their non-existent fire sale; at least fire sales are legal, whereas with this beach hut scheme, the legality is still unclear.

Statements from Ms McDade

1. As a beach hut owner I've had no correspondence from the council regarding this. I find this both surprising, and concerning, given the fact that we were emailed about set up of a beach bar. I'd have thought inviting us to comment on this issue was at least as important. You outline 'Beach hut associations' as a key stakeholder. It should be 'beach hut owners, and users, with the 'Beach hut associations' as one way of engaging with us. It shouldn't be your only method, especially when membership has a cost attached.
2. Despite taking it upon myself to try and find out about this, and the proposed impact, it's extremely difficult to navigate the documentation to make comment. The agenda still lists the report to follow. As a mother of two boys under 11, living in a small two bedroom flat, and working locally, our beach hut is our outdoor space and we are therefore very keen to protect it and have the opportunity to comment properly on any proposed changes.

24. Commercialisation of Beach Hut Assets through Special Purpose Vehicle (SPV) Wholly or Majority Owned by the Council

A Committee member highlighted that there was no report available for consideration. There was therefore little which could be discussed around this issue. The Committee member moved that the meeting be adjourned. The motion was duly seconded.

The motion was debated, and a number of points were raised including:

- The proposed date to reconvene the meeting was 2 September. This was prior to the September Cabinet meeting which was expected to consider this matter.
- Concerns were raised that no report had been made available for this meeting and the reasons for this had not been made clear.
- There had been confusing communications regarding the meeting taking place both for Councillors and the general public.
- Councillors sought assurance that the advice received on this issue including the reports from KPMG would be made available to the Committee and also that this information be made available for beach hut owners.
- The suggestion that the meeting should be cancelled or should be made inquorate were not appropriate.
- Committee members also sought assurance that a report would be available in time for the 2 September meeting including meeting the timeline for publication of the agenda with reports.
- A Committee members suggested that they would like to put a proposal to ask the leader to prepare an emergency budget.
- There were concerns raised regarding the cost implications of the proposal if it would not be going ahead.

Following discussions, the motion was voted on and it was:

RESOLVED: That the meeting be adjourned until the report is available.

Voting: For 6, Against 5

Cllr G Farquhar, Cllr M Iyengar, Cllr S Moore, Cllr V Slade requested to be recorded as voting against the motion.

The meeting adjourned at 6.53pm on 20 July 2022 and reconvened on 2 September 2022 at 6.00pm.

The Chairman welcomed everyone to the reconvened meeting. An apology for absence for the reconvened meeting had been received from Cllr J Edwards. The Chairman explained that he would invite questions and comments from committee members first followed by other councillors. He asked that members avoid repeating points previously raised at the July meeting.

The Leader and Portfolio Holder for Finance and Transformation presented a report, a copy of which had been circulated to the Committee and which appears as Appendix A to these minutes in the Minute Book. The Leader explained that following clarification from the new Secretary of State on guidance on the Flexible Use of Capital Receipts (FUCR) the Council was no longer pursuing the use of the

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SPV. The change in guidance prevented the capital received from the sale of beach hut assets to the SPV to be used for transformation purposes. As a consequence, a Finance Update report was being brought forward to Cabinet on 7 September and to this Committee, setting out new plans to fund transformation.

The Leader and officers responded to questions and comments, including:

- Questions about 20 July meeting, including why the Leader had not attended, why the latest updates could not have been communicated, whether scrutiny was being disregarded and why officers could not have provided information.

The Leader explained that at that time discussions with the Government were still fluid (at the point between the letters from Kemi Badenoch MP on 16 June 2022 and Greg Clark MP on 1 August 2022). In his view it was the wrong time for the Committee to be considering the item. Although the Committee was required to convene, he anticipated that the discussion would not proceed as there was nothing to scrutinise and did not feel there was value in his attendance. He did not consider there had been a disregard for scrutiny and pointed to the special meetings which had now been arranged.

The Chief Executive assured members that officers were open and honest if asked questions and that he did not recall any direct questions being asked in the manner suggested.

- Questions on the lack of evidence that the Government supported the SPV proposal when the Council had been told it did and that the Budget had been predicated on this support.

The Section 151 Officer referred to paragraphs 78 and 79 of the Budget and MTFP report to Council in February 2022 which had clearly set out the position. The Government had been clear that the proposal was not prohibited by the FUCR direction but having considered it further it was not felt to be within the spirit of the direction. The Leader reported on earlier 'without prejudice' feedback from KPMG, CIPFA and the External Auditor that the proposal was in accordance with the regulations. He referred to the new borrowing solution offered by the letter received today from Paul Scully MP. The Chief Executive clarified that although earlier discussions with Government on options to fund transformation had included borrowing, informally this was not supported and no formal application to borrow had ever been made.

- Questions on the letter from Kemi Badenoch MP and the timeline of discussions between the Leader and the Secretary of State on the need to be ambitious/flexible in mechanisms to fund transformation.

The Leader reported that he had held an initial discussion with Robert Jendrick MP prior to Michael Gove MP taking office in September 2021. Following the receipt of the letter from Kemi Badenoch on 16 June 2022, which was shared with informal Cabinet and officers, the Leader had spoken to Michael Gove on the matter in July 2022. The matter had 'stalled' between Michael Gove leaving office in July and Greg Clark MP's succession. The Government's position was confirmed in the correspondence from Greg Clark and Paul Scully MP and they were now working with the Council to allow the Council to borrow.

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- Questions on how the Beach Huts SPV was developed

It was noted that the first KPMG report dated September 2021 did not include the beach huts proposal. The proposal was discussed at a subsequent workshop with Council officers, KPMG and a representative of BCP Future Places Ltd.

- Questions on the timeline of the KPMG reports including concerns about their status and lack of availability until now

There were concerns about the length of time the KPMG reports had not been made available to members despite repeated requests and the reasons given for this, at various points members being told there was no report and that the Leader could exercise discretion not to disclose a draft report. It was noted that there appeared to be little difference between the draft and final versions. Councillors had also received an email from a local resident challenging the legality of not disclosing the reports.

The Monitoring Officer explained that there were a number of factors to consider when providing advice on such matters, including Freedom of Information, data protection in terms of requiring report author consent, statutory and common law rights, access to information procedure rules and there being some circumstances where the Leader can decide not to release a draft report at the time. The Chief Executive referred to the Constitution as setting out how and when reports are made available. The Leader said this was not in his gift, that he did not deny access to the report, that he was not able to do so and in any event the report was not finished.

- Questions on the costs of transformation, how this had been / was being funded and further staff reductions.

During the meeting there was a robust exchange of views around the approaches of the current and previous Administrations to the costs of transformation and how this had been/was now being funded. The Section 151 Officer clarified that the investment programme now extended to £68 million included £20.09 million in staff costs apportioned to working on transformation over the next three years, this being the most significant reason for the increase. The Budget report explained the intention to invest in adult and children's service layers which, although not approved as part of the report, included an assumption of £7.2m for 2025/26 following transformation which the Section 151 Officer confirmed was through further Full Time Equivalent reductions.

- Questions on the need to reflect in light of the clear messages from Central Government – on the need for clear and explicit agreements from the outset; transparency/earlier disclosure and engagement with members, stakeholders and residents, including challenge through the overview and scrutiny; and recognition of the risks to our relationship with Government in testing the rules by acting outside the spirit of them.

The Leader acknowledged the need to reflect on process and disclosure in terms of how the Council got to this point. He did not feel the budget report was ambiguous, the early indications were that the proposal was acceptable before the rules were changed and in terms of relationships the Government was now working directly with the Council to progress a positive outcome. He rejected a call to resign, referring to the Council's record of delivery. He referred to constitutional

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and cultural issues around the conducting of political debate which he felt all councillors needed to reflect on.

Questions were also raised about the reference to Christchurch Civic Centre, which the Leader confirmed was being looked at for community use, and the procurement process in relation to KPMG, which was not deemed relevant.

RESOLVED that the Overview and Scrutiny Committee notes the Council is no longer pursuing the commercialisation of beach huts via an SPV.”

Voting: 5 For, 0 Against, 5 Abstentions

Cllrs S Bartlett, G Farquhar, M Iyengar, S Moore, V Slade asked for their abstentions to be recorded.

The meeting ended at 7.41 pm

CHAIRMAN