

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

Minutes of the Meeting held on 02 September 2022 at 6.30 pm

Present:-

Cllr L Williams – Chairman

Cllr R Rocca – Vice-Chairman

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

1. Apologies

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

2. Substitute Members

Cllr D Borthwick substituted for Cllr H Allen, Cllr M Cox substituted for Cllr
M Andrews, Cllr G Farquhar substituted for Cllr L Allison and Cllr V Slade
substituted for Cllr M Earl.

3. Declarations of Interests

There were no declarations of interest made on this occasion.

4. Public Issues

The Chairman reported that no public statements or petitions had been
received on this occasion. Four public questions had been submitted by a
member of the public, Mr Alex McKinstry, who was present to read out his
questions as follows:

Question 1 from Mr Alex McKinstry:

The report for this meeting was published belatedly - the day after the
deadline for public questions. This meant I had to submit questions for the
meeting based on guesswork, then withdraw those - and submit the present
batch - on 26 August, when the report appeared and the deadline for
questions was extended. (This also wasted officers' time.) The explanation,
which can still be seen on the agenda frontsheet, was that the leader had
been 'unavailable' to sign off the report. Why was he unavailable, and why
couldn't he have arranged for the report to be signed off by his deputy?

**Response from Cllr D Mellor, Portfolio Holder for Finance and
Transformation:**

I'm really delighted you've been able to submit your questions, so that was resolved.

You've asked me why I was unavailable. I was on holiday, effectively I had a long term booked holiday that actually was back-to-back with our Director of Finance's holiday and we needed to look at the papers collectively which we did as soon as I returned from holiday and then released it.

Why was it not been arranged for the report to be signed off by the Deputy? I'm the Portfolio Holder for Finance, so effectively that report is the responsibility of the Section 151 Officer and myself, so it would have been inappropriate to have asked anybody else to sign it off. I'd also just bring to your attention the fact that this report was originally expected in the back end the late September Cabinet meeting. So what we've actually done is bring it forward. That created significant pressure on our Finance team to get this report ready in time and effectively four weeks early. So in answering your question, I'd like to thank our finance team who have delivered this report early for us. And hope that those two comments I've answered your questions.

Question 2 from Mr Alex McKinstry:

The agenda stated that the report had been delayed 'at the leader's specific request', because of his unavailability. The leader should have no say in the matter, however - reports are required to be published five working days before these meetings under S100B LGA 1972. There is a get-out under sub-section 3 - where a report hasn't yet been seen by members - but to release the KPMG reports *five weeks after* public questions is beyond belief. Why are these reports being published so late in the day, and why was the leader allowed to hold this one back at his 'specific request'?

Response from Cllr D Mellor, Portfolio Holder for Finance and Transformation:

As we have discussed in the previous meeting, I was of the view that we needed to wait until we had more full information in terms of that report and which we've now been able to produce and then discussed at the completion of the previous meeting. So and at no point, and we've had a significant discussion in the previous meeting, and at no point have I specifically delayed any of these reports. The KPMG reports were not able to be published until KPMG had confirmed that they were OK and have in fact been lightly redacted. So they have changed the reports that we would have seen. Thank you.

Question 3 from Mr Alex McKinstry:

The report, when released, was extremely lucid - it chronicles the demise of the beach-hut scheme in all its appalling detail. The only thing that isn't made clear is how the scheme originated; paragraph 3 doesn't really touch

on it. For the historical record, therefore, who first came up with the idea of commercialising the beach-huts, and when?

Response from Cllr D Mellor, Portfolio Holder for Finance and Transformation:

Thank you very much for your question. So this workstream started with my Administration, in terms of our desire to not sell assets and to deliver extra efficiencies through the transformation programme. We've looked at how we could do that and rewind the policy for the previous Administration in terms of sale of assets and use of reserves. And those workstreams were originally internal. Then we engaged our transformation partners. So this scheme originated from the work with KPMG. Following the production of the first initial draft KPMG report in September 2021, a meeting took place between the Leader of the Council, Officers of the Council and BCP Future Places and representatives of KPMG at their offices in London on the 13 October 2021. The outcome was the evaluation of the beach huts as an example, as part of the second report.

Question 4 from Mr Alex McKinstry:

I'm sure the committee will examine how the SPV project failed, and how we got to where we are today. But there is one final thing that puzzles me, and it's the letter from Kemi Badenoch, dated 16 June: she made it clear that 'flexibilities ... are not intended to address budget pressures'. Why, then, did the leader tell the audit and governance committee on 28 July that 'DLUHC have confirmed ... [the scheme] falls absolutely within the current regulations,' when the minister had told him six weeks previously that flexibilities couldn't be used for the purposes he was seeking?

Response from Cllr D Mellor, Portfolio Holder for Finance and Transformation:

It was not a budget pressure, it was a transformation pressure that the Beach Hut piece of work was trying to rectify so via the securitization of the Beach Hut proposal the Council could use capital receipts generated to fund the revenue elements of its transformation programme using the government flexibility known as the Flexible Use of Capital Receipts. Capital receipts normally can only be used to fund capital expenditure or repay borrowing, not revenue expenditure. The letter from Kemi Badenoch confirmed the Council's proposal was not explicitly disallowed by the direction as worded at the time.

The Chairman thanked Mr McKinstry for his questions.

5. Finance Update Includes Quarter One 2022/23 Budget Monitoring Report

The Leader and Portfolio Holder for Finance and Transformation presented a report and supplementary addendum, copies of which had been circulated to the Committee and which appear as Appendix A to these

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minutes in the Minute Book. The Leader explained that this report had been brought forward to the 7 September Cabinet due to the impact of the Government's updated guidance on the Flexible Use of Capital Receipts direction (FUCR) on funding transformation costs. The letter from Paul Scully MP dated 2 September confirmed that the Government was minded to offer the Council in-principle support of up to £20m in the form of a capitalisation direction for the financial year 2022/23. The Leader thanked the Minister and his team for their prompt assistance. The report and the addendum set out the steps proposed to address the Council's financial position and prepare itself to deliver balanced budget for 2023/24.

The Leader and officers responded to questions and comments on the following issues:

- The status of the capitalisation direction, whether it was within the Council's borrowing limits and its likely cost and the role of Section 151 (S151) Officer v Commissioner

The S151 Officer confirmed the following: a capitalisation direction was a process for exceptional financial support in exceptional circumstances; a recommendation to allow the flexibility to increase the overall borrowing cap was being taken to Council in September; the typical premium over normal borrowing rates was 1% and this was assumed in the budget. It may not necessarily be applied but if so, it would be for the £20million only; and the role of a S151 Officer was to take all necessary steps to prevent the Council being issued with a Section 144 notice;.

- Typical conditions of a capitalisation direction, including taking all opportunities to better position Council's financial sustainability including an increase in council tax and the production of a schedule of assets to generate capital receipts

In respect of council tax the S151 Officer referred to the Budget and MTFP report of February 2022 which had suggested including an alternative form of budget as an option. The current report included a recommendation to bring forward a capital receipts schedule for non-strategic, asset sales, which would be drawn up if agreed. He confirmed that the protection of and a commitment to increase the Council's unearmarked reserves was advised.

The Leader explained that, while more of a challenge, the current Administration retained its aim not to raise council tax. He was clear that further work with the Department of Levelling Up, Housing and Communities (DLUHC) was required and he paid tribute to the Council's Finance team for their response. He did not agree that the sale of assets in these circumstances constituted a 'fire sale'. The potential sale of non-strategic assets and 'investments to yield' could be explored. This was subject to ongoing discussions with DLUHC but may not be required.

During the meeting there was a robust exchange of views around the Council's financial position under the current and previous Administrations, in particular around the time of transition. The S151 Officer referred to the position set out in the Budget and MTFP update report in May/June 2020 which had identified significant pressures due to the Covid-19 situation, the strategy put in place to mitigate this if required and the subsequent support provided by Government which allowed the Council to move into a better position.

- Which elements are included in Transformation investment

The Leader explained that more funding was being made available for specific service-based workstreams in children and adult services as part of a more ambitious programme. This was referenced in the February 2022 Budget/MTFP report. The Chief Executive reminded members that the transformation of central services such as HR and Finance across all services area formed the main part of the programme.

- The criteria for restricting new financial commitments and how this will be made known and the Peer Review recommendation to suspend non-essential recruitment

The Leader explained that the restriction was intended to be a temporary measure, with the criteria to be developed with the S151 Officer. There would be opportunity for increased scrutiny and transparency through the monthly Cabinet updates. In response to the criticism of the need for specific posts within the Council, he did not feel it was appropriate to single these out in this arena. While not necessarily agreeing with suspending recruitment this would be looked at when all expenditure was reviewed.

- The governance of the capitalisation direction and the potential impact on the Council's authority and ability to scrutinise.

The Leader would continue to make the case for flexibility in funding transformation but in terms of the capitalisation direction the two main conditions were to ensure a balanced budget and be subject to an external governance review. While the capitalisation direction was seen as a positive, the Council was also looking internally at other options, within the spirit of the regulations. The Chief Executive paid tribute to the work of the S151 Officer and his team and representatives of DLUHC and HM Treasury for responding at pace. The Finance report's recommendations were in line with Government requirements and should the Council respond accordingly there would be no further stage required. He assured members that the governance review would involve scrutiny and direct challenge.

- How much time and resource had been spent on 'novel practices and ways to circumnavigate the rules' (Letter from Greg Clark MP to Council Leaders, 1 August 2022)

The Chief Executive reported that it should be possible to answer the first part of the question. He reiterated the Council's position in respect of the guidance received from Government and that there had been no deliberate intention to circumnavigate rules. He explained that there was currently no time recording system for senior officers but that accounting for individual projects was being looked

- The budget position, including the need to account for the Dedicated Schools Grant (DSG) and rising energy costs in the MTPF

The S151 Officer referred to the likely extension of the disregard regulations although this could not be guaranteed. A long term solution was required and it was noted that Dorset Council had come to a specific arrangement with the Government. He confirmed that the budget assumed a doubling of energy costs and further increases in 2023/24, but the position remained uncertain and would be monitored daily. A member suggested that work to accelerate energy efficiencies could bring longer term savings.

The S151 Officer was also asked about the Durley Road development and confirmed that the Council share of the profit was £1million.

During the meeting concerns were raised about reputational damage to the Council, the potential reduction in services and the need to reassure residents, and whether in the circumstances the Leader should resign. The Leader did not agree with these points and referred to the achievements of the current Administration.

Committee members commented on the need to respond at pace in terms of scrutiny and formal challenge. The following resolution was put forward and duly seconded, put to the vote and was carried by 5 in favour, 4 against and 1 abstention:

RESOLVED that during this period of reconsidering the in year budget for 2022/23, the Committee agrees that scrutiny should be increased to reflect the monthly budget updates to Cabinet which could be in the form of single item scrutiny meetings to which all councillors are invited.

A proposed recommendation was put forward and duly seconded, "That Recommendation 4 be amended to delete the word 'further' and replace it with 'traditional' to read as follows: 'It is recommended that Cabinet agrees to explore options across the Council to deliver revenue through traditional commercialisation and a review of fees and charges as a response to the cost-of-living crisis'."

The Chief Operations Officer responded to a question to provide further information on what these options might be.

The recommendation was put to the vote which was lost by 5 in favour to 6 against (with the Chairman using his casting vote against).

A further proposed recommendation was put forward and duly seconded, "That the Committee recommends to Cabinet the following additional recommendation: "In order to strengthen the case to Government the Committee recommends that the Cabinet Member responsible for Finance be replaced immediately and the roles of Leader and the Finance Lead are permanently separated."

Committee members commented that that the separation of the two roles was a constructive move which sent the right message to central Government.

The recommendation was put to the vote which was lost by 5 in favour to 6 against (with the Chairman using his casting vote against). Cllrs G Farquhar and M lyengar requested their votes in favour to be recorded.

Committee members commented on the serious position of the Council and the need to demonstrate that everything possible was being done to respond to the Government. The following recommendation was put forward and duly seconded, put to the vote and was carried by 6 in favour, 4 against:

RESOLVED that the Committee RECOMMENDS to Cabinet that Recommendations 7 and 8 in the report be amended to insert the phrase "and the resilience reserves be restored", to read as follows:

7) Agrees to place an update on the Financial Strategy as a standing Cabinet agenda item until such time as there is a balanced budget delivered for 2023/24 and the resilience reserves are restored.

8) Agrees that no new financial commitments will be made until such time as there is a balanced budget for 2023/24 other than with the specific agreement of the Chief Finance Officer in consultation with the Portfolio Holder for Finance and the resilience reserves are restored.

AND the Committee RECOMMENDS to Cabinet the following additional recommendations:

- **That the Futures Fund be suspended and all additional commitments be closed until further notice**
- **That the Future Places ambitions and funding should be reviewed.**

Cllr G Farquhar requested his vote in favour to be recorded.

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The meeting ended at 9.38 pm

CHAIRMAN