

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL

AUDIT AND GOVERNANCE COMMITTEE

Minutes of the Meeting held on 26 October 2023 at 6.00 pm

Present:-

Cllr M Andrews – Chairman

Present: Cllr S Armstrong, Cllr J Beesley, Cllr B Castle, Cllr A Chapmanlaw,
Cllr M Phipps, Cllr C Weight and Cllr M Tarling

26. Apologies

Apologies for absence were received from Councillor Herrett.

Councillor Connolly was present at the meeting on a virtual basis (without entitlement to vote).

The Chair welcomed Councillor Armstrong to her first meeting as representative on the Committee of the Green Party in place of Councillor J Salmon.

The Chair welcomed the two prospective Independent Members to the meeting who were attending as observers only at this stage and the Chair referred the Committee to item 9 on the agenda regarding their appointment.

27. Substitute Members

Formal notice had been received appointing Councillor Tarling as substitute for Councillor Herrett.

28. Declarations of Interests

There were no declarations of interest.

29. Confirmation of Minutes

The Minutes of the meeting of the Committee on 07 September 2023 were confirmed as a correct record and signed by the Chair.

30. Public Issues

The Committee was advised of the receipt of six public questions and two public statements.

PUBLIC QUESTIONS

Public Questions from Mr Alex McKinstry

Question 1.

Studying the report for Item 12 this evening - the officer's report - we find this, among the recommendations following the failure of the Bayside Restaurant: "**Detailed financial analysis should be undertaken of contractors involved in pop-up [restaurant] activities.**" That appears to have something in common with Paragraph 19, second bullet-point, which cites concerns around a particular contract and the related financial forecasts and financial performance. What exactly is the report author getting at here? Did one particular contractor get into difficulty and, if so, to what extent did that affect the Bayside's performance? Can we have as much detail about this as possible, given that the auditor's report is being withheld from the public and given that there is no allusion to this misfortune, as far as I can make out, in the executive summary?

Response

The recommendation that reads "**Detailed financial analysis should be undertaken of contractors involved in pop-up [restaurant] activities.**" is entirely separate and not linked to paragraph 19.

Paragraph 19 is in no way implying the financial health or standing of any particular contractor was a contributing factor to Bayside financial performance.

The Internal Audit investigation report covers all pop-up activities not just the Bayside restaurant pop up. The quoted recommendation suggests that a detailed financial analysis should be undertaken to fully understand the total historic aggregate expenditure with all the various contractors involved in pop-up activities. Understanding aggregate expenditure may then reveal opportunities for aggregating commissioning and tendering activities into larger packages, where possible and appropriate to do so. This may result in better value for money, provide economies of scale and allow greater competition. More efficient and cost-effective commissioning and tendering may also result.

Paragraph 19 refers to an area of concern the Chief Operations Officer required the HR independent Code of Conduct, disciplinary investigation to consider – were the Internal Audit investigation's identified weaknesses in financial modelling and financial management of the Bayside venture a disciplinary matter requiring sanction?

For the avoidance of any doubt, and partially using Mr McKinstry's words, 'no contractor got into financial difficulty' during the Bayside venture.

Question 2.

The executive summary meanwhile states, at 4.2, that procurement waivers for Bayside were signed by an officer with "a close personal relationship with the directors of the operating company", which the officer had declared. When was that declaration made, how many waivers did the officer go on to sign, and to what financial value? Can we also be told

whether this conflict of interests was known about by any of the waivers' counter signatories - I take it the investigators have looked into this - and if not, how did this collision of interests eventually come to light?

Response

The officer declaration was dated 4 Feb 2022.

The officer signed and approved two waivers linked to the company where 'a close personal relationship' was declared, one was for £60,000 and one was £125,000. The actual final spend on the £60,000 waiver was £27,900 and the actual final spend against the £125,000 waiver was £97,108.

The officer also signed and approved five other waivers, totalling £289,380 for various supplies and services for summer hospitality at Bournemouth Beach which were not with a provider where a declaration of interest was made. Some of these supplies and services purchased through these waivers were used in the Bayside venture and 2022 Bournemouth air festival.

The conflict of interest was not known about by the waiver counter-signatories at the time of signing.

The declaration of interest form was obtained by Internal Audit as part of their investigation. Internal audit concluded that there was no evidence of fraudulent behaviour having taken place in relation to this declaration of interest or perceived conflict of interest.

The Council recognises that where a conflict of interest exists, or where there may be perception of a conflict, mitigation measures are required to manage that conflict. Such mitigation measures were not in place in this instance. The Director of Commercial Operations has subsequently required all staff, in the Directorate, to review and update their declarations of interest and any mitigations required have been agreed by line managers and reviewed by the Director.

Question 3.

Finally, at public questions on 21 February (full Council), the then portfolio-holder for tourism and culture, stated that one advantage of using "a mixed management model" for seasonal offers such as Bayside is that it "helps share the risk". Turning, then, to 5.1 of the executive summary, and the £173,500 net loss arising from the Bayside venture: what percentage of that loss has been borne by the Council, and what percentage shouldered by partners?

Response

The previous responses to questions raised at full Council explained that the 'mixed management model' and 'helps share risks' remarks, referred to the overall pop-up programme delivered across the seafront, where a

variety of operational management models were used to deliver the individual pop-ups.

As a standalone pop-up, for Bayside, 100% of the loss was borne by the Council.

As a standalone pop-up, for Bayside, the Executive summary, Key finding at 4.2 reads: Contract design was weighted heavily in favour of the third-party operators with payment of a fixed fee plus profit share and no liability for losses.

Recommendation at bullet point 10, paragraph 14 of the main report refers as follows - Contractual arrangements should ensure an appropriate balance of risk and reward.

For the 2023 summer season, taking the recommendations from the investigation and wider lessons learnt into account, contractual arrangements similar to those used for the Bayside venture have not been used as the Council recognises risks and rewards were not appropriately balanced.

Public Questions from Mr Ian Redman

Question 1.

In April, Bayside Restaurant announced, “Bookings now being taken for August”, indicating contracts had been agreed with suppliers.

Catering and staffing waivers were signed by the service director on the 11th July, Head of Strategic Procurement on the 14th July and approved by the Head of Audit on 20th July, at least four months late.

Financial regulations say “Waivers and PDR’s will not be granted retrospectively, and any such requests will be treated seriously and constitute a breach and may result in disciplinary action.”

Can the Chair confirm when and to who, the Head of Internal Audit reported the breach of the financial regulations?

Response

There was no breach of Financial Regulations. Waivers were not submitted late or retrospectively. The waivers were submitted in advance of the purchase orders being raised, and therefore in advance of the formal contractual commitment.

For one supplier a waiver was approved in March 2022 and the resulting purchase order was raised in April 2022 to work on the pre-event and in-event management and planning. The invoice for this work was paid by the Council on 1 August 2022.

The pre-event planning work included taking advance bookings. Advance bookings were knowingly taken, at risk, before the decision was made by the responsible officer to go ahead with the Bayside venture which occurred on or around 22 June 2022.

The catering and staffing waivers referred to in the question, and signed in July, were rightly raised and approved after the decision was made by the responsible officer to proceed with the venture.

Question 2.

3.5 of the Bayside Executive Summary says; Officers and third party contractors raised concerns about the Bayside. Which third party contractor raised concerns, when and to who?

Response

This information is restricted information as described in paragraph 13 of the covering report. The 'when' part of the question covers several comments made in April, May and June, before the decision was made to eventually proceed which was made on or just after 22 June 2022.

Question 3.

As the full Bayside report has been withheld, can the Chair confirm how many pages it is in length and whether the Committee have been provided with a completely unredacted copy.

Response

The full report is 22 pages, a further 22 pages of appendices exist which makes the total report 44 pages in length. The Committee have been supplied with a redacted version of the full report. Redaction appears where Council officers are named or where third-party individuals or suppliers are named. This redaction is based on the advice of the Monitoring Officer and is explained in full at paragraph 13 of the covering report.

PUBLIC STATEMENTS

Public Statements from Mr Alex McKinstry

Statement 1.

Re the assertion that the Committee must enter "exempt session" to discuss the Bayside audit. Procedure Rules 4A 9.2.1-3, from the Constitution, are cited in this regard, but these conflict with primary legislation - specifically, Section 10 of Schedule 12A to the Local Government Act 1972, which states that such material "is exempt ... so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information."

The ICO cites various scenarios where "public interest" might arise, several directly applicable to Bayside: "securing ... best use of public resources", for instance, or "ensuring fair commercial competition". (The latter is particularly relevant, as it's still unclear why six-figure procurement waivers were necessary for Bayside.) The Committee should look to primary legislation, therefore, and debate the report in open session.

Statement 2.

Whether the debate proceeds in open session or not, I have some figures relating to Bayside which may prove interesting. The catering receipts totalled £158,399.80. Unfortunately the organisers had anticipated receipts of £435,742, so, while there were significant underspends - only £38,469 was spent on food, for instance, whereas the organisers budgeted for £77,613 - the receipts were still way too low to generate anything near a profit; the ANTICIPATED net profit had been just £36,252. Other significant expenditure included: catering staff, £51,705; bar staff, £45,404; drinks, £23,084; "organisation and management", £19,300. Total expenditure was £331,829.99, which, deducted from the catering receipts, generated a net loss for Bayside of £173,430.19. This information was obtained by me under Section 25 of the Local Audit and Accountability Act 2014 and has been shared with all committee members.

31. External Auditor – Audit Progress & Sector Update

The External Auditors, Grant Thornton, presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book. The report provided an update for the Committee on their progress to date in delivering their responsibilities and included an update on their 2021/22 audit work.

It was reported that, in regard to Financial Statements Audit 2021/22, the aim was to present a draft Audit Findings Report for 2021/22 to the November meeting of the Committee and issue their opinion by the end of November 2023. Good progress was reported although Grant Thornton advised Members that they had received an indication during the morning of the meeting that the required Letter of Assurance relating to the Dorset Pension Fund may not now be received from the Pension Fund Auditors until just before Christmas. This could lead to a delay in the timetable although Grant Thornton would do everything that they could in advance to be in a position to complete the audit as soon as the Letter was received.

The nature of the delay was set out and explained and these were matters that were outside the control of the Council's Auditors and the Committee was of the view there these matters should be addressed at a national as well as a local level. There were also specific comments about the Dedicated Schools budget and the previous Chair of the Committee informed the Committee that correspondence between him and the Chief Executive would be provided to Grant Thornton.

Grant Thornton also provided an update on the Value for Money 2021/22 and 2022/23 audits and reported that regular meetings had been set up with the Chief Executive, Director of Finance and Cabinet Portfolio holder responsible for finance to discuss progress against the recommendations made in their Auditor's Annual Reports for 2021/22 and 2022/23, as well as other recent external reports and emerging issues.

The report also included a summary of emerging national issues and developments that may be relevant to the Council.

RESOLVED that Audit and Governance Committee notes the External Auditor's progress to date in delivering their responsibilities and the sector update provided.

Voting: Unanimous

32. Treasury Management Monitoring update for Quarter 2 2023/24

The Assistant Chief Financial Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The Committee was reminded of the requirement under the Chartered Institute of Public Finance and Accountancy Management Code of Practice that regular monitoring of the Treasury Management function was reported to Members.

It was explained that Council was required to approve any changes to the prudential indicators based on a recommendation from the Audit and Governance Committee.

The report included a summary of the contextual economic background and a tabulation of interest rate projections provided by the Council's Treasury Consultants. Summaries of the Council's borrowings and investments as at 30 September 2023 were also provided.

The report also set out an economic update and a Quarter 2 performance update for 2023/24 which forecast an underspend of £730k due to the increase in interest rates, an improvement from the £665k reported in Quarter 1. The report also detailed the Council's borrowing which stood at £258m and investments at £69m.

RESOLVED that Audit and Governance Committee notes the reported activity of the Treasury Management function for April to September 2023.

Voting: Unanimous

33. Risk Management – Corporate Risk Register Update

The Risk and Insurance Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'C' to these Minutes in the Minute Book.

The Committee received an update on the position of the Council's Corporate Risk Register. Material updates to the risks were summarised within the report and it was particularly noted that Corporate Risk 4 (Loss or disruption to IT Systems and Networks from cyber attack) had been updated and that Corporate Risk 14 (Continuity of Public Health arrangements for health protection) had been updated and consideration would be given in the next Quarter to its continuation as a Corporate Risk. No new risks had been added nor existing risks removed during the Quarter although it was reported that ongoing review of the Corporate Risks would now begin to reflect and align with the policies of the new Council.

In response to questions, it was agreed that risk relating to 'SEND' funding would be discussed with the risk lead and further update included within the next report to the Committee. Similarly, further detail would also be provided under the Corporate Risk 13 heading (Failure to deliver the transformation programme) with particular focus on the effect of mitigations introduced.

In response to comments about the apparent lack of movement within each risk, the Committee was reminded that, as the report only set out high level Corporate Risks, more minor changes were unlikely to be reflected in the overall risk score. Whilst accepting this, there was agreement that an indication of 'direction of travel' would be useful for the Committee and this could be included within future reports. The Portfolio Holder for Finance, also present at the meeting, underlined the importance of Member involvement in risk management at this level and confirmed his commitment to the process.

RESOLVED that the Audit and Governance Committee note the update provided in this report relating to corporate risks.

Voting: Unanimous

34. Appointment of Independent co-opted members to Audit and Governance Committee

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'D' to these Minutes in the Minute Book.

The report explained that, although not a legislative requirement, best practice and a '2022 position statement' by the Chartered Institute of Public Finance & Accountancy (CIPFA) endorsed by the Department for Levelling Up, Housing and Communities recommended that audit committees in local government should include at least two co-opted independent members.

Members were reminded that at the previous Committee and subsequently at Council there had been agreement in-principle to recruit two co-opted independent members to the BCP Council Audit and Governance Committee. The recruitment proposes in the format as agreed had

subsequently taken place and the recommendations made by the appointed selection and recruitment Panel of Councillors Andrews, Herrett and Chapmanlaw were set out in the report. Final appointment would need formally to be made by the full Council.

The Chair of the Committee had already welcomed the two prospective Independent Members to the meeting emphasising their attendance only as observers at that stage. Although members of the Committee were supportive of the proposal, an undertaking was given that, in order to ensure that Members were familiar with the details and experience of the individuals proposed, the background information and summary Curriculum Vitae in each case would, with their agreement, be provided to Members before voting on the appointments at Council.

RESOLVED that Audit and Governance Committee endorse the decisions made by the selection and recruiting Panel to appoint two co-opted independent members to the BCP Council Audit and Governance Committee.

RECOMMENDED that full Council approve the appointment of two co-opted independent members to the Audit and Governance Committee for a period which will end on 31 March 2026 and that Samantha Acton and Lindy Jansen van Vuuren be appointed accordingly.

Voting: For - 7; Against - 0; Abstain - 1

35. Governance of Corporate Health and Safety and Fire Safety

The Health and Safety Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'E' to these Minutes in the Minute Book.

The report detailed progress made on the delivery of Health and Safety and Fire Safety governance arrangements for BCP Council. Health and Safety and Fire Safety Board meetings were reported to be taking place Quarterly with good attendance by Service Directors or their representatives. The Committee was also advised that the established BCP Council Health and Safety and Fire Safety Governance framework, which detailed the applicable governance arrangements, continued to be embedded and was working effectively.

In response to questions about Chairing of the Board it was explained that although this had usually been undertaken by the Chief Executive, the Chief Operations Officer was now increasingly involved and the issue of Chair was being reviewed. A Member was of the view that, whilst supporting the report overall, he would be unlikely to support any change to Chairmanship of the Board on the basis that, in his view, this important corporate leadership role should be undertaken by the Chief Executive. The Head of Audit and Management Assurance provided confirmation that, even if not Chairing the Board, the Chief Executive was always in attendance at it's meetings.

The Committee received updates on Health and Safety and Fire Safety operational issues including information about a number of Health and Safety Executive Improvement Notices that had been issued and successfully resolved.

It was noted that a Health and Safety Advisor vacancy continued to impact on the speed of delivery of some objectives, particularly the proactive audit programme, and would continue to do so over the remaining part of the year.

RESOLVED that Audit and Governance Committee notes

- a) the continued progress in implementing the Health and Safety and Fire Safety governance arrangements and the operational updates;**
- b) that Health and Safety and Fire Safety ongoing governance arrangements updates continue to be reported annually to the Audit and Governance Committee.**

Voting: For - 7; Against - 0; Abstain - 1

36. Emergency planning and business continuity annual update

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'F' to these Minutes in the Minute Book.

The Committee was reminded that emergency planning and business continuity were statutory duties for BCP Council and activity over the reporting period has been about continuing to build capability and put plans in place in line with higher risks, local and national learning, and nationally-driven priorities and workstreams such as planning for a national power outage.

The report set out the key emergency planning development activities undertaken and also provided an update on Business Continuity. Members were advised that the outcome of the Internal Audit periodic review of corporate emergency planning and business continuity arrangements had provided a 'Reasonable' assurance opinion and that the issues raised were being addressed albeit within the context of reduction in available resources.

In response to a specific question about alignment with national resilience standards regarding business continuity strategy and level of compliance with resilience governance frameworks it was agreed that a full response be provided in writing to the Committee following the meeting.

RESOLVED that the Audit and Governance Committee notes

- a) the emergency planning and business continuity activity that has taken place during the monitoring period;**
- b) the ongoing issues with delivering the business continuity management programme;**
- c) the current issues within the Emergency Planning Team regarding resource and the impact this will have on service delivery;**
- d) the current resilience position locally and nationally and the implications of this.**

Voting: Unanimous

37. Internal Audit - 2nd Quarter, 2023/24, Audit Plan Update

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'G' to these Minutes in the Minute Book.

The report detailed progress made on delivery of the 2023/24 Audit Plan for the period July to September (inclusive) 2023 and brought the attention of the Committee to a schedule of key audits.

In particular, the report included the final investigation report relating to 'Commercial Operations – Seafront : Review of Pop-Up / Temporary Activities Incorporating Bayside Restaurant'. The Committee was informed that the full report contained confidential exempt information and had therefore been provided separately to Councillors. A Briefing note had also been issued to Members ahead of the meeting. The Chair of the Committee was of the view, however, that, as far as possible within those constraints of confidentiality, the matters should be addressed in public. It was explained that the report contained eighteen recommendations, although found no evidence of fraud, and included explanation of actions already taken following issue of the report.

Members of the Committee expressed the view that the level of redaction within the report, though necessary for confidentiality, restricted the ability of Members to fully understand the report. It was suggested that this would be improved by allocating a reference to each person mentioned without actually including the names of particular individuals. Other Members were of the view that, since issue of the report with the agenda for the meeting, there had been insufficient time for them to give the report sufficient consideration prior to discussion and to prepare the detailed level of questioning that the public would expect. There was a contrary view from other Members of the Committee that sufficient time had been allowed.

There was also identified benefit in the Independent Person members of the Committee, whose appointment had not yet been confirmed by full Council, being involved in this discussion.

The Committee acknowledged the diligent work that had been undertaking by the Audit Team in production of the report.

It was proposed by Councillor Chapmanlaw, seconded by Councillor Armstrong and

RESOLVED that further consideration of the entirety of the report from the Head of Audit and Management Assurance entitled 'Internal Audit - 2nd Quarter, 2023/24, Audit Plan Update' and as set out in the agenda be deferred until the next meeting of the Audit and Governance Committee on 30 November 2023.

Voting: For – 5; Against 1; Abstain 2.

38. Annual Report of Internal Audit Counter Fraud Work and Whistleblowing Referrals 2022/23

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'H' to these Minutes in the Minute Book.

The report detailed counter fraud work carried out by Internal Audit to provide assurance on the Council's response to combating fraud and corruption. Internal Audit had investigated all allegations of suspected fraud or financial irregularity in a proportionate manner and it was confirmed that this included allegations of fraud from internal and external sources. Details of 'whistleblowing' referrals during the period were also listed.

It was reported that six formal whistleblowing referrals for the Council had been received and investigated by Internal Audit during 2022/23 and the particular fraud area involved and the outcome and recommendation in each case was set out.

In response to a question relating to investigation of allegations concerning the rental of office space by 'FuturePlaces', it was noted that this subject was likely to be within the scope of the next annual report to the Committee.

RESOLVED that the Audit and Governance Committee notes

- a) the counter fraud work and investigations carried out by Internal Audit during 2022/23;**
- b) the whistleblowing referrals received during 2022/23.**

Voting: Unanimous

39. Forward Plan - Refresh for the 2023/24 municipal year

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'I' to these Minutes in the Minute Book.

The report set out the list of reports to be considered by the Audit and Governance Committee for the 2023/24 municipal year in order to enable it to fulfil its terms of reference.

There were number of items identified particularly under the heading of 'External Audit Reports' which, as Members had heard earlier in the meeting, may be subject to change dependent upon timetable factors and issues outside the control of the Auditors.

The Committee was reminded of the opportunity that was available for Members of the Committee, and Independent members once formally appointed, to request subjects for consideration in further depth at the scheduled 'extra' meetings of the Committee. Members were invited to submit such requests to the Chair of the Committee in the first instance.

The Committee also noted the availability on-line of recordings of the induction training sessions which had taken place after the elections in May.

RESOLVED that Audit and Governance Committee approves the Forward Plan set out at Appendix A.

Voting: Unanimous

The meeting ended at 8.22 pm

CHAIR