

COUNCIL



Report subject	Report under Section 5 of the Local Government and Housing Act 1989
Meeting date	15 September 2020
Status	Public Report
Executive summary	The Report provides information on a minor omission to make available for public inspection the draft Annual Governance Statement in June 2019. It is presented to the Council for information only as changes were made to the relevant processes in 2019 when the omission came to light and the omission is unlikely to recur.
Recommendations	It is RECOMMENDED that: (i)The report be noted
Reason for recommendations	The omission occurred in June 2019 and relates to the 2018/19 Annual Governance statement of the legacy Bournemouth Borough Council (BBC) and Borough of Poole Council (BOP). Processes are now in place to ensure that a further omission does not re-occur.

Portfolio Holder(s):	Councillor Vikki Slade - Leader
Corporate Director	The Monitoring Officer
Report Authors	Anne Brown - former Interim Director of Law and Governance and Monitoring Officer
Wards	Council-wide
Classification	For Information

1. Background

- 1.1. Under Section 5(2) of the Local Government Act 1989 the Council's Monitoring Officer is under a duty to report to Council, if it at any time it appears to her that any proposal, decision or omission on behalf of the Authority has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law. This provision does not give the Monitoring Officer any discretion and requires the reporting of the smallest, most inconsequential breaches of legislation, including those that cannot be remedied and for which the impact is small. The Monitoring Officer is required to consult the Head of Paid Service (the Chief Executive) and Finance Officer (section 151 Officer) in the preparation of this report. In addition, the Council's Head of Audit has also been consulted and the Chairman of Audit and Governance has been informed. Members of the Authority are required to consider the report within 21 days of its issue.
- 1.2. The Audit and Accounts Regulations 2015 ("the Regulations") were made under the Local Audit and Accountability Act 2015 ("the Act"). One of the main purposes of both the Act and Regulations is to reiterate provisions contained in earlier legislation replaced by the Act, relating to the preparation and approval of the Authority's accounts and local electors ability to raise an objection to the statement of accounts with the independent auditor. The right of an elector to raise an objection is set out in section 26 of the Act. This provides a very limited right to raise an objection on matters that may justify either the issue of a public interest report or an application to the court by the independent auditor for a ruling that an item of account is unlawful. The objection must be made in a very short timeframe during a statutory public inspection period and successful objections are very rare. The date for public inspection of the statement of accounts is set out within the Regulations so that any objection can be considered by the independent auditor before completion of the audit of the accounts and members final approval of the Council's statement of accounts.
- 1.3. The Regulations also provide (Regulation 6) that the Authority prepare and approve an annual governance statement ("the AGS"). Regulation 15(2) provides that the AGS is also made available for public inspection at the same time as the statement of accounts, at this stage the AGS will, for the majority of authorities, still be in draft format.
- 1.4. In 2019 there was a failure to make available for public inspection the AGS at the time the statement of accounts was made available. The statutory public inspection period for Statement of Accounts for 2018/19, was from 3 June to 12 July 2019.

Unfortunately, the omission occurred because of the reliance in the first year of the new Authority to rely upon the predecessor authority procedures (BBC and BOP). It appears that there was a failure to pick up the legislative omission and adapt the process by the predecessor authorities.

- 1.5 The draft AGS was published on 17 July 2019 as part of the Committee reports and upon its adoption the completed AGS was published on the website along with agreed statement of accounts. There was no objection raised by any electors to the accounts nor did the Council receive a request to make available the said draft AGS prior to the end of the publication period.
 - 1.6 When the issue was raised by a member of the public as a Public Issue at the Audit & Governance Committee on the 10 October 2019 the then Monitoring Officer gave verbal assurance to the Committee the member of the public would be provided with a written response, (minute number 23 refers) and the minutes of the meeting were provided to full Council .
 - 1.7 Councillors can be assured that the relevant processes have now been amended and this year the draft AGS was made available for public inspection with the statement of accounts in compliance with the relevant provision.
2. **Options Appraisal**
As this is an information report there are no options considered necessary.
 3. **Summary of financial implications**
There are no direct financial implications in relation to this issue.
 4. **Summary of legal implications**
As set out in the background section of the report.
 5. **Summary of human resources implications**
There are no direct human resource implications.
 6. **Summary of sustainability impact**
There is no sustainability impact associated with the report.
 7. **Summary of public health implications**
There are no public health implications associated with the report.
 8. **Summary of equality implications**
There are no equality implications associated with the report.
 9. **Summary of risk assessment**
The impact of the omission to publish the AGS is unclear but is probably minor. Clearly had the AGS been published any comments made by the public would have been taken into account when considering its content. However, the ability of an elector to raise an objection to the content of the draft AGS alone under section 26 without some linkage to the statement of accounts and meet the relevant criteria is very unlikely.

Background papers

None

Appendices

There are no appendices to this report.