



## AUDIT AND GOVERNANCE COMMITTEE

Report subject	<b>Response to a deputation made by the Chairman of Kinson Community Association (KCA) at the last Bournemouth Borough Council (BBC) Audit &amp; Governance Committee 16<sup>th</sup> January 2019</b>
Meeting date	25 July 2019
Status	Public report
Executive Summary	<p><b>Response to KCA Question 1 – When, if ever, has the Community Regeneration and Community Centre function of the Council (BBC) been audited?</b></p> <p>The function has not been audited in the last six years. Instead other forms of assurance have been used to measure the effectiveness of the Council’s Community Regeneration and Community Centre support service, principally the positive and negative feedback from all Centres in Bournemouth.</p> <p>Internal Audit provided assurance on the effectiveness and adequacy of several related corporate functions relevant to the Landlord status BBC had for Community Centres including Kinson Community Centre (KCC). These included, but were not limited to:</p> <ul style="list-style-type: none"> <li>• Health &amp; Safety;</li> <li>• Fire Safety; and</li> <li>• Building Maintenance.</li> </ul> <p><b>Response to KCA Question 2 – Why the Anti-Fraud and Corruption Policy which states that: “The policy will be communicated to all staff, councillors, contractors and other relevant bodies”, clearly is not?</b></p> <p>Whilst it was a clear aspiration for every employee to be aware of the Anti-Fraud and Corruption Policy (the Policy), this was extremely difficult to achieve across such a large and diverse workforce. The BBC induction program made all new starters aware the Policy existed and where to find it.</p>

	<p><b>Response to KCA Question 3 – Why, in the experience of KCA, have officers at all levels failed to follow the Anti-Fraud and Corruption Policy?</b></p> <p>The then Head of Community Regeneration took the view that BBC’s Anti-Fraud and Corruption Policy did not apply in this case.</p> <p>A subsequent ‘Independent Reviewer’ produced a series of findings which stated that BBC employees acted (quote) ‘<i>appropriately, reasonably and professionally</i>’ during their respective interactions with KCA.</p> <p>The Service Director for Communities (BCP Council) is implementing two recommendations made by the independent reviewer to foster and improved landlord (BCP) / tenant (KCA) relationship</p>
<p><b>Recommendation(s)</b></p>	<p><b>That Audit &amp; Governance Committee:</b></p> <ul style="list-style-type: none"> <li>• <b>note the responses to the specific questions raised in the deputation;</b></li> <li>• <b>note the actions proposed to foster an improved landlord (Bournemouth, Christchurch &amp; Poole Council), tenant (KCA) relationship;</b></li> <li>• <b>note no further action will be taken.</b></li> </ul>
<p>Reason for recommendation(s)</p>	<p>To ensure that Audit and Governance Committee are aware of the issues arising from the deputation made to the last Bournemouth Borough Council Audit &amp; Governance Committee.</p>

Portfolio Holder(s):	Councillor Vikki Slade (Leader of the Council)
Corporate Director	Julian Osgathorpe - Corporate Director Resources
Contributors	Nigel Stannard (Head of Audit & Management Assurance) Kelly Ansell (Service Director Communities) Jane Portman (Former Managing Director of Bournemouth Borough Council) Bill Cotton (Corporate Director Regeneration & Economy)
Wards	Kinson
Classification	For update and information

## Background

1. The Chairman of Kinson Community Association (KCA) made a deputation to the last Bournemouth Borough Council (BBC) Audit & Governance Committee on 16th January 2019.
2. This report provides a response to the three specific questions raised in the deputation. It also provides a summary of plans to foster an improved landlord/tenant relationship (between BCP Council (the landlord) and KCA (the tenant)) through a series of mediation style meetings.
3. KCA, or representatives of KCA, have also raised informal and formal complaints and allegations over a period of about three years starting in October 2014. This report also summarises action taken by BBC to address these complaints and allegations.

## **Response to KCA Question 1 – When, if ever, has the Community Regeneration and Community Centre function of the Council (BBC) been audited?**

4. The function was not specifically audited in the recent past. Internal Audit records and reports are retained for six years (six plus the current year) and in this time the function was not subject to audit.
5. The Internal Audit Team worked to a risk-based Audit Plan which was approved by the BBC Audit & Governance Committee on an annual basis and which prioritised the resources available. The Community Centre support function, which was approximately one full time equivalent staff member, was not considered a high-risk service (to BBC/the local tax-payer) and as such did not warrant any Internal Audit independent appraisal / assurance on the effectiveness and / or adequacy of arrangements.

6. Instead, reliance on other forms of assurance existed, the principle one being the positive and negative feedback from Community Centres themselves which shaped the way the support service operated.
7. Internal Audit provided assurance on the effectiveness and adequacy of several related corporate functions relevant to the Landlord status BBC had for Community Centres including Kinson Community Centre (KCC). These included, but were not limited to:
  - Health & Safety;
  - Fire Safety; and
  - Building Maintenance.
8. These audits provided assurance that BBC was effectively and adequately managing risks (specific to those audit headings) across the estate portfolio, including where it only has landlord responsibilities (like at KCC).
9. As part of the preparations for the new Bournemouth, Christchurch and Poole (BCP) Council, the BCP Programme Board has agreed that Internal Audit will continue to operate to a risk-based model aligning scarce resource to those areas considered highest risk.

**Response to KCA Question 2 – Why the Anti-Fraud and Corruption Policy which states that: “The policy will be communicated to all staff, councillors, contractors and other relevant bodies”, clearly is not?**

10. BBC had about 2,600 employees and a further 250 in shared service roles where the Borough of Poole (BoP) was the employer. Whilst it was a clear aspiration for every employee to be aware of the Anti-Fraud and Corruption Policy (the Policy), this was extremely difficult to achieve across such a large and diverse workforce. However, the BBC induction program made all new starters aware the Policy existed and where to find it.
11. More generally, BBC had a range of fraud awareness training and personal/professional development opportunities, which incorporated communicating the Policy, including:
  - an E-learning module (part of the mandatory e-learning suite for BCP Council going forward);
  - a Fraud Awareness Newsletter produced by Internal Audit and posted on BIZ (and BoP LOOP); and
  - Bespoke training by Internal Audit on request.
12. Consequently, a significant proportion of the workforce was aware of the Policy; but this is hard to evidence and quantify. The BCP Head of Audit & Management Assurance will consider whether any positive future evidence or assurance can be obtained utilising BCP Council’s HR system through self-declaration. i.e. Staff

could self-declare that they are aware of and have read certain key policies utilising available functionality in the HR system.

13. The deputation question stems from the KCA Chairman (the Chairman) asking to see the BBC's Anti-Fraud and Corruption Policy via a Freedom of Information (FOI) request on 4<sup>th</sup> October 2018. The Chairman was erroneously told on the 5<sup>th</sup> October 2018 that BBC did not have such a Policy. The BBC Head of Information Governance, or her representative, sent a letter of apology to the Chairman explaining this was an error made in good faith and BBC did in fact have such a Policy, and which was subsequently provided.
14. The Chairman stated in the deputation that (quote): '*as a result of my raising this, it (the Policy) has now been put on the Council's intranet and also the Council website to be accessible to the public*'. This statement is partially correct – BBC's intranet (BIZ) always had the Policy shown within it, accessible to all staff and councillors. BBC's website did not contain the Policy, thus it was not transparently available to the public. This was corrected on the 23<sup>rd</sup> October 2018.

**Response to KCA Question 3 – Why, in the experience of KCA, have officers at all levels failed to follow the Anti-Fraud and Corruption Policy?**

15. In approximately 2014 when complaints and allegations were first made, the then Head of Community Regeneration took the view that BBC's Anti-Fraud and Corruption Policy did not apply in this case (see paras 18 to 22 for explanation why). KCA were advised to contact the Police if they suspected fraud or corruption. KCA contested, and continue to contest, this view and think the Policy should have applied.
16. With the benefit of hindsight, it may have been in BBC's interest to have applied the Policy. In crude / simplistic terms this would have required the BBC Head of Audit & Management Assurance (HAMA) to become involved, to determine the investigation required and to report findings.
17. That said the independent investigation (see paras 26-31) does all of this and had the benefit of being external to BBC. Had BBC conducted the investigation and concluded as the independent investigator has done, then a probable accusation, given what has followed, could have been one of 'cover up' and the investigation lacking independence.

**Summary of why the then Head of Community Regeneration (BBC) took the view that the Policy did not apply**

18. BBC had a landlord / tenant relationship with KCA. The day to day operational systems, processes and governance arrangements of the tenant (subject to any relevant lease clauses) were not the responsibility of BBC.

19. BBC's Communities Manager had a role to support and advise on such matters but KCA was not formally obliged to follow this advice and support except where it may impact any lease terms.
20. KCA contest that the Policy should have applied because (quote): '*up to December 2015, Kinson Community Centre was managed by Bournemouth Borough Council (BBC) staff*'. Whilst an individual was employed by BBC this was purely to facilitate pay/payroll arrangements because KCA did not have a pay facility at the time. For many years (at least back to 2004) the Trustees / Charity ran the Centre including providing operational instruction and management of all staff therein. To state that BBC (or its staff) managed the centre was false – the 'acid test' being why have trustees/the KCA charity at all if that was the case?
21. With the benefit of hindsight, BBC should have insisted on TUPE transfer of the employee in question to the Charity (KCA) albeit to agree to carry on facilitating the actual payroll arrangements. However, at the time this was seen as unnecessary and a much more informal arrangement to achieve the same purpose was instead agreed.
22. Putting aside whether the Policy applied or not there was no evidence of fraud or corruption in any case. KCA contested this view but they did not, and have not subsequently, provided BBC, the Police or the independent investigator (See para 26-31) with any evidence to suggest otherwise.

#### **Other Issues Arising – Planned mediation to foster improved relationships**

23. Before the deputation was made and following the outcome of the independent investigation being shared with KCA, the then Head of Communities, Enforcement and Regulatory Services was planning to approach KCA to offer a series of mediation meetings to foster an improved landlord/tenant relationship.
24. Indeed, from the landlord (BBC and now BCP) perspective Health & Safety and Fire Safety meetings have already taken place and have been very positive. Informal feedback from KCA has also indicated these meetings to be positive, but for the avoidance of any doubt no official or written feedback has been received, and this report in no way attributes any representative of KCA to such comments.
25. The former BBC Managing Director made an offer to the KCA Chairman in June 2018, at no cost to KCA, for some BBC Internal Audit time to provide the Trustees with some independent assurance on the adequacy of systems and processes within the Association. This offer was not taken up but remained open until BBC ceased to exist.

#### **Other Issues Arising – External Independent investigation**

26. KCA made several complaints and allegations to BBC over a fairly protracted period (about 3 years), all of which BBC believe had been appropriately responded to. KCA did not share this view.
27. Eleven specific historic allegations were summarised by the then new KCA Chairman in a formal complaint letter dated 11<sup>th</sup> May 2017.
28. A separate formal complaint was also received on 5<sup>th</sup> June 2018 concerning the conduct of BBC officers during a Fire Safety visit on 19<sup>th</sup> April 2018. This complaint made a further nine specific allegations.
29. To bring matters to a satisfactory end for both parties (BBC and KCA), the BBC Managing Director, after consultation with the KCA Chairman, commissioned an independent investigator, a specialist in conducting and managing workplace investigations, to consider both formal complaints (paras 27 and 28) and report their findings to all twenty specific allegations (eleven, plus nine).
30. This independent review cost £12,157; these costs were met in full by BBC in the 2018/19 accounts.
31. The independent investigator produced a series of findings which stated that BBC employees acted (quote) '*appropriately, reasonably and professionally*' during their respective interactions with KCA and that all twenty of the specific allegations made were unsubstantiated.
32. The independent investigator made two recommendations:
- Consider setting up mediation meetings to rebuild an effective working relationship (*note: this tallies with the plans of the then BBC Head of Communities, Enforcement and Regulatory Services as mentioned in para 23*); and
  - Nominate a Council employee to be the primary point of contact for all matters relating to the Centre going forward.

BCP Council's Service Director of Communities will ensure these recommendations are implemented.

### **Summary of Financial Implication**

33. Response to this deputation has been provided from within existing base budget allocations.
34. Total Officer time taken to respond to this deputation has been approximately 10 hours.
35. The independent investigation cost £12,157; these costs were met in full by BBC.

### **Summary of Legal Implications**

36. There are no direct legal implications from this report. A Landlord / tenant contract/agreement (lease) is in place.

#### **Summary of Human Resource Implications**

37. There are no direct human resource implications from this report.

#### **Summary of Environmental Impact**

38. There are no direct environmental implications from this report.

#### **Summary of Public Health Implications**

39. There are no direct public health implications from this report.

#### **Summary of Equality Implications**

40. There are no direct environmental implications from this report.

#### **Summary of Risk Assessment**

41. The risk implications are as set out in the report.

#### **Background Papers**

None.

#### **Appendices**

None.