

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
AUDIT AND GOVERNANCE COMMITTEE

Minutes of the Meeting held on 28 November 2024 at 6.00 pm

Present:-

Cllr M Andrews – Chair

Present: Cllr S Armstrong, Cllr J Beesley, Cllr J Clements (In place of Cllr M Tarling), Cllr M Phipps, Cllr T Trent (In place of Cllr V Slade), Cllr C Weight and Samantha Acton

Present virtually: Cllr E Connolly, Lindy Jansen Van-Vuuren

Also in attendance: Cllr M Cox, Cllr M Howell, Cllr L Northover

48. Apologies

Apologies were received from Cllr V Slade and Cllr M Tarling.

49. Substitute Members

Notification was received that Cllr T Trent and Cllr J Clements were substituting for Cllr V Slade and Cllr M Tarling respectively.

50. Declarations of Interests

Agenda Item 9 - Governance surrounding the disposal of Council land and property: For transparency purposes Cllr M Andrews reported that he was employed by commercial property surveyors.

51. Confirmation of Minutes

The minutes of the meeting held on 17 October 2024 were confirmed as an accurate record for the Chair to sign.

The Chair confirmed that the suggestion to include an action tracker alongside the minutes had been noted.

Note: Cllr J Beesley asked to be recorded as abstaining from voting on 17 October and 5 September 2024 minutes.

52. Public Issues

Public Questions received from Mr Alex McKinstry in relation to Agenda item 6 – Statement of Accounts 2022/23

Question 1

Did Grant Thornton receive any extra payment for the feedback it provided relating to the 2022 budget (and in particular, the beach hut scheme that underpinned it)? If so, what was the amount paid? Can you also confirm whether GT's advice was presented in a report or paper of any description, and if so, what was the date of any such document?

Response:

Grant Thornton's 2020/21 Audit Findings Report finalised on 2 March 2023 included a final fee for the audit. Within this it included additional fees for value for money work for the year totalling £20,000 which covered a whole raft of additional value for money work undertaken in the year based on a number of risks identified by the auditor. This additional work included work on the proposed beach hut scheme and discussions with DLUHC on BCP's proposal, but also included significant work on numerous other areas to conclude their work. There was not an individual amount for the beach hut scheme work in isolation. In terms of Grant Thorntons advice, they cannot provide advice to the Council as this would compromise their independence. If they had concerns about any potential decision, they would raise it with officers, but it is ultimately a decision for the Council. The 2020/21 VFM report of the 28 September 2022 details their consideration of the potential beach hut scheme.

Question 2

Regarding the controversial 2023 budget amendment, which was never in fact put forward: what exactly was this proposal, and what were the elements that made it "innovative and high-risk"? We know the then-Leader had a specific scheme in mind because it is described, on p. 60 of tonight's reports pack, as "a proposed income strip of a Council-owned asset" that would have generated a capital receipt *and* revenue stream. Was any file note or memorandum made of the meeting between Peter Barber, Graham Farrant and Adam Richens on 13 January 2023 where this scheme was discussed; and were any concerns relayed to Lee Rowley, Minister of State at DLUHC, who rang Drew Mellor at 1.30 pm on 19 January 2023 (seemingly out of the blue) and wrote to him six days later cautioning against a "commercial scheme that carries risk"?

Initial response:

This question is not straight forward and will take longer than the relatively short period of time between the submission of the question and this meeting to prepare a response. The intention is to include a detailed response with the minutes of this meeting.

Full response:

As set out in the 2022/23 Value for Money report of the External Auditor the proposal which was not formally put forward was a possible income strip of a Council-owned asset. In an income strip, a Council typically sells a long leasehold interest in an asset while retaining ownership of the freehold. The Council receives a substantial upfront payment, normally as a capital receipt, and then leases back the property, making annual lease payments indexed to inflation. Such agreements typically include a buy back option at the end of the lease period for a nominal sum and allow a Council to swap

its future income for an upfront capital receipt. The then Leader of the Council was proposing to use some or all of the upfront payment on an income strip to support the revenue budget for 2023/24. No detailed business case had been presented to Cabinet or Council in support the proposal. The Council was at that time part of the Government's Exceptional Financial Support programme and had given the Ministry of Housing, Communities and Local Government (MHCLG) assurances that it would produce its 2023/24 budget based on traditional and conventional approaches to local government finance. The Council Director of Finance issued a warning in a presentation to all Councillors on 18 January 2023 that he would not sign off the budget if this proposal was put forward by the administration as an amendment to its own proposed budget for 2023/24. The External Auditor, Peter Barber, had been previously notified on the 13/1/23 of the proposal by the Director of Finance and Chief Executive, and MHCLG were also informed of the proposal by the Chief Executive on 13 January 2023 in a Teams meeting. It is understood that both a minister of MHCLG and the External Auditor then made direct contact with the then Leader of the Council setting out their own concerns with the proposal.

As a footnote can I remind the committee that this proposal was never implemented and does not relate to the current 2024/25 approved budget or the developing proposals for the 2025/26 budget of the Council. Can I also remind the committee that they have already received and accepted the 2023/24 Value for Money report of the External Auditor (A&G Committee 25 July 2024) which brought their assessment up to date and set out the improvement from that reported for 2022/23.

Question 3

This relates to the Council's sale of assets in 2022-3, though it also overlaps Item 9, matters of governance concerning land disposals. Is there anyone still around who can explain why the Airfield Industrial Estate at Christchurch was divided into lots prior to being approved for sale by full Council on 10 January 2023, whereas the Wessex Trading Centre and the trading estate at Willis Way were not? Just in case the answer involves value for money considerations: the guide price for "Lot 54" on the Airfield Estate (as the agent dubbed it) was reduced from £510,000 to £275,000 in the week prior to the auction; and since this was an auction, bidding would have presumably started much lower.

Response:

The units at Airfield Industrial Estate were divided into lots because they are separate buildings/ plots spread out over the estate served by an adopted highway and the recommendation from the valuer that undertook the Red Book valuation was to dispose of them separately to realise the highest aggregate price. Wessex Trade Centre on the other hand is an industrial estate where the 57 units in 8 terraces are intrinsically physically linked to each other being served of a private service road system. They share the same access and the common parts are managed via a central service charge.

Public statement received from Susan Stockwell in relation to

Agenda item 9 – Governance surrounding Disposal of Council land and property

Could disposal include entering into contracts for options to purchase as well as outright disposal.

Public statement received from Philip Gatrell in relation to Agenda Item 7 – Review of the Council’s Constitution

Agenda Item 7 includes the following Constitution Review Working Group Recommendations:

(d) Appointment of Committee Member to ... Review Working Group

The Recommendation has complementary practical merit, given the precursory nature of Review Group input regarding this Committee’s Constitutional regulatory function “... to consider any issue of Council non-compliance with its own and other relevant published regulations ...”.

(e) “ ... necessary and consequential ... updates and revisions ... delegated to ... Monitoring Officer”

This highlights a continuing misleading oversight in the Constitution concerning misstatements of the Monitoring Officer’s reporting duties under Sections 5 and 5A of the Local Government and Housing Act 1989 (1989 Act).

Any residual doubts are dispelled by this resident’s progressive public statements to the Committee on 11 April, 25 July and Council on 20 February, 23 July, 15 October 2024.

The correction is mandatory not delegated. Nor is it contentious in view of the unambiguous legislation and Ms Berry’s conformity as stated in Birmingham Council’s Constitution during her tenure.

Public statement received from Philip Gatrell in relation to Agenda Item 8 – Transparency of officer decision making and accountability to Councillors

Ensuring the transparency and accountability stated at Agenda Item 8 is the responsibility of the “1989 Act” triumvirs comprising Chief Executive, Monitoring Officer and Director of Finance.

Since 1 April 2019 those Officers’ statutory and contractual responsibilities have been skirted by:

- Resisting correct and full statement in the Constitution concerning Monitoring Officers’ 1989 Act reporting of contraventions of law; maladministration; service failures. Those immutable duties require the minimal text explained in my previous public statements.
- Obscuring Councillors’ awareness of Officers’ defective decision making thus also their performance and accountability. When, for example, 1989 Act reports have hitherto been omitted - with the single exception of a “Section 5” report arduously coaxed out by this resident.

The current Monitoring Officer appointed in December 2023 will naturally - by statutory duty without fear or favour - action without delay the correct practices identified above.

Accordingly, systemic weaknesses must not continue unbridled by Councillors aware of accruing significant failings.

Public statement received from Alex McKinstry in relation to Agenda Item 6 – Statement of Accounts 2022/23

I was disappointed at Grant Thornton's refusal to issue a public interest report following the failure, by officers, to provide accounting records during the 2022 and 2024 statutory inspection periods. This in turn deprives an elector of his right to examine, query, or object to the accounts, rights conferred by Sections 26 and 27 of the Local Audit and Accountability Act. These rights, moreover, are valuable, as an auditor cannot study every transaction made by a local authority; and especially valuable against the backdrop of 2020-3, the abyssal period of BCP's governance. (The incarnadine caveats swathing page 35 of tonight's paperwork - "Value for money arrangements: Auditor judgment" - support this.) I do note however Grant Thornton's concession, in their letter to me of 8 November, that "were the issue that you have identified ... to persist in future years, then we may consider it appropriate to investigate further."

Public statement received from Alex McKinstry in relation to Agenda Item 9 - Governance surrounding Disposal of Council land and property

The committee heard on 17 October that leaks of exempt information, and associated risk management, might be incorporated into tonight's presentation. Further information has emerged since then. There is no doubt, for instance, that the leak to the Echo concerning Wessex Fields came from a councillor, not an officer; this is supported by the MO's email to all members sent on 1 May (11.44 am) in the wake of that divulgence. There is no doubt either that the Echo's initial claim, that the site was being sold at an undervalue, was totally untrue. This is supported by other correspondence including a stinging email to Tobias Ellwood from the Chief Executive on 25 May, obtained under FOI). Let's get these facts out there. The Wessex Fields leak was clearly a malicious attempt to taint the administration via misinformation, and the culprit is unfit for office.

53. Statement of Accounts 2022/23

Peter Barber, representing Grant Thornton, the Council's External Auditor, 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 Committee was required to consider and approve the draft statement of accounts for 2022/23 before they were published. Mr Barber summarised the key points detailed in his letter, dated 12 November 2024, regarding the conclusion of the audit for 2022/23. The letter included the reasons why it was not possible to complete the audit for 2022/23 by the statutory backstop date and the proposal to issue a disclaimer. It was noted that the Value for Money (VFM) work for 2022/23 previously reported to the Committee had been fully discharged and was recirculated at appendix 3.

In response to questions Mr Barber assured members that a full audit for 2023/24 had been undertaken and was on track to meet the February 2025 deadline. Regarding previous delays, he confirmed that Dorset Pension Fund was aware of the importance of issuing its letter of assurance to ensure the completion of the 2023/24 audit. It was aimed to get this letter

before Christmas 2024. He clarified that the significant weaknesses listed in the draft audit report at appendix 2 had already been identified and reported to the Committee previously as part of the VFM work. In respect of the statement of accounts for 2022/23, the Assistant Chief Financial Officer wished to assure members that the Council's usable reserves had not changed as a result of subsequent decisions taken by Cabinet and Council.

A concern was raised regarding the total estimated figure for the Transformation Investment Programme, as shown in the statement of accounts, and whether there were any tangible benefits from the public's perception. The Chief Executive referred to the regular updates provided on the transformation programme. He advised that a completion report was due to be submitted to O&S and Cabinet in January 2025, which would include the levels of expenditure and savings over the programme's lifespan.

The Committee was advised that the issues raised in the report related to the 2022/23 financial position and that the position for 2023/24 and the current year to date reflected the positive changes made, as reported at previous meetings. Members acknowledged the progress made in addressing the significant weaknesses identified in the report and it was recognised that the matters identified were known issues. For example, Members were well aware of the Dedicated Schools Grant. The forthcoming update on the transformation programme was noted and may be something for the committee to review in due course. There was now a need to look to the future. However, this did not mean that past issues, such as FuturePlaces, should be overlooked or that issues from the 2022/23 financial year should not be considered where there were lessons to be learnt, perhaps as part of wider look at decisions made at that time where there were costs involved and longer term implications.

The Committee considered a proposal to undertake an investigation into FuturePlaces. Members discussed the need to scope the investigation as widely as possible, invite member input into the scoping process and ensure all evidence requested was available. The Committee considered a suggested format for the investigation and felt that while the initial scoping/briefing may or may not be done informally, there needed to be a discussion in the public domain. The Chief Executive responded to a question about how much was already known in terms of lessons learnt, bearing in mind the amount of time and resources an investigation might require. He felt that the key lessons had been learnt. He referred to the internal and external reviews of corporate governance and company shareholder governance processes and the actions arising from the Best Value Notice which had all been complied with. There was some value in terms of councillor engagement and in public discussion.

The Committee requested that a briefing/investigation on FuturePlaces be added to the Forward Plan. Members could then discuss in more detail how to deal with the investigation as part of the Forward Plan agenda item at its next meeting.

RESOLVED that the Committee:

- a) Notes the ISA260 Audit Finding report letter sent to the Chair of Audit and Governance Committee (appendix 1);**
- b) Notes the draft audit report for 2022/23 (appendix 2) which auditors will sign as soon as possible by the deadline of 13 December 2024;**
- c) Notes the Value for Money report 2021/22 and 2022/23 previously presented to Audit and Governance on the 7 September (appendix 3);**
- d) Approves the signing of the Statement of Responsibilities and the Letter of Representation by the Chair of the Audit & Governance Committee and the S151 Officer (appendix 4);**
- e) Approves the 2022/23 statement of accounts 2022/23 (appendix 5).**

Voting: For – 5, Against – 0, Abstain – 2

As a result of the discussion on Future Places, the Committee took a separate vote on the following resolution:

RESOLVED that a briefing/investigation on Future Places be added to the Committee's Forward Plan

Voting: For – 5, Against – 1, Abstain – 1

54. Review of the Council's Constitution - Recommendations of the Constitution Review Working Group

The Chair of the Constitution Review Working Group 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 report provided a summary of the issues considered by the Constitution Review Working Group and set out a series of recommendations arising from the Working Group for consideration by the Committee. The recommendations related to the arrangements at Council for a separate budget meeting and the scheme of delegation for the planning committees. It was noted that any recommendations arising from the Committee would be referred to full Council for adoption. In addition, the report sought the appointment of an additional member of the Committee to serve on the Constitution Review Working Group.

Issue 2 – Part 3A Responsibility for Functions – Planning Committee:

The Director of Planning and Transport provided an explanation for the changes proposed to the functions of the planning committees as set out in paragraphs 20 to 27 of the report. The changes had been incorporated into an updated version of Part 3A of the Constitution at appendix 2. Members

discussed at length the proposed change to section 2.3.7 (a) of Part 3A in relation to one of the criteria for councillor call in. As written, Members felt that the criteria requiring an application to raise material planning issues ‘that affect their ward’ was too restrictive, as this could be read to mean the whole of the ward which would rarely apply. Members agreed that the reference to material planning issues was key and that the term ‘potentially contentious’ was not required. However, Members felt that call in should be permitted where only part of their ward, however small, was affected.

A move to amend the wording of section 2.3.7 (a) to read as follows was seconded and carried:

“in the opinion of the Councillor making the request, the application raises material planning issues that affect **part or all of their ward** or would affect the wider public interest that would warrant debate and consideration by a planning committee; and”

Voting: For – 6, Against – 0, Abstain – 1

Issue 1 – Part 2, Article 4 (The Full Council) – Budget Meeting:

The Chair of the Working Group referred to recommendations (a) and (b) in the report and outlined the reasons for the proposed new Budget Council as set out in paragraphs 9 to 12. She assured Members that the review of other matters around full council meetings was ongoing. Committee members spoke in support of introducing a dedicated council meeting to consider the budget items.

RECOMMEND TO COUNCIL that:

- (a) in relation to Issue 1 (Article 4 – The Full Council) the proposed amendments to Part 2, Article 4 (The Full Council), as set out in Appendix 1 to the report, be approved;**
- (b) that the Council meeting scheduled for Tuesday, 25 February 2025 be designated as the Annual Budget Council Meeting and that an additional ordinary meeting of Council be scheduled for Tuesday, 11 February 2025 at 7.00pm;**
- (c) in relation to Issue 2 (Part 3A Responsibility for Functions – Planning Committee) the proposed amendments to Part 3A (Responsibility for Functions), as set out in Appendix 2 to the report, be approved, subject to the addition of the words ‘part or all of’ in section 2.3.7 (a) to read:**

“in the opinion of the Councillor making the request, the application raises material planning issues that affect part or all of their ward or would affect the wider public interest that would warrant debate and consideration by a planning committee; and”

any necessary and consequential technical and formatting related updates and revisions to the Constitution be delegated to the Monitoring Officer.

Note – Recommendation (d) in the report was a resolved matter by the Committee as follows:

RESOLVED that the Committee appoints Cllr Sara Armstrong to serve on the Constitution Review Working Group.

Voting: Unanimous

55. Presentation - Transparency of officer decision making and accountability to Councillors

The Monitoring Officer gave a presentation on the transparency of officer decision making and accountability to councillors, a copy of which appears at Appendix 'C' to these minutes in the Minute Book.

The content of the presentation covered key areas including the Constitution, financial thresholds, the scheme of delegation, types of officer decisions, other forms of officer decisions and decisions made by statutory officers (s5 and s114 reports). The Monitoring Officer took the opportunity to confirm that she was satisfied with the current wording of her responsibilities under the Local Government and Housing Act 1989 as set out in Article 11 of the Constitution with no changes proposed.

Committee members talked about the importance of ward member engagement and the need for this to be embedded. It was noted that ward members were invited to comment on draft reports through the modern gov system where the issue affected their ward. The Monitoring Officer agreed that this process be highlighted when the councillor induction programme was considered by the Standards Committee. She explained that officers were encouraged to be proactive in communicating with ward members outside of the formal report process, something members felt should be reinforced as part of the officer induction programme.

A concern was raised about the mechanisms available internally and externally for councillors to challenge officer decisions, in terms of there being a lack of sufficient recourse to raise issues in the public interest. The Monitoring Officer assured members that the decision-making process was heavily monitored and regulated. She outlined the mechanisms available internally, including provisions under the Constitution, the formal complaints process and the role of Internal Audit. Externally one could apply for judicial review, although it was commented that this was an unlikely and costly option. Governance concerns could also be raised with the External Auditor who had the power to undertake an independent investigation and require mandatory responses from the Council's statutory officers and was comfortable in doing so. It was noted with support that the Portfolio Holder for Finance met regularly with the External Auditor on a one-to-one basis to raise issues and concerns.

The Monitoring Officer also responded to points raised by members as follows:

- The definition of a ‘key’ decision – this would be added to the final version of the presentation slides.
- The process followed by statutory officers in coming to an informed collective view on a case-by-case basis should Cabinet and officers not agree on the proposed category of decision. It was noted that this was not a s5 report.
- The level of detail contained in the published officer decision record
- The process followed by statutory officers when issuing a report to suspend decision making and the challenges of meeting the 21 day timescale.

The Chair thanked the Monitoring Officer for her presentation.

56. Presentation - Governance surrounding the disposal of Council land and property

The Chief Financial Officer gave a presentation on governance arrangements for the disposal of council land and property, a copy of which appears at Appendix ‘D’ to these minutes in the Minute Book.

The content of the presentation covered key areas, including a step-by-step process map for asset disposal, the role of the Cross Party Strategic Asset Disposal Working Group (CPSADWG) and its agreed operating principles, the respective financial thresholds for Officer/Cabinet/Council decision making as set out in the Financial Regulations and the legal framework for asset disposal subject to Best Value Duty.

The Chief Financial Officer responded to questions from the Committee on issues raised in the presentation, including:

- It was confirmed that ward members were consulted on asset disposals in their ward. This could be widened on a case-by-case basis, for example if an asset was located in an adjoining ward near the ward boundary.
- The Committee was advised that there was a pipeline of assets disposals which was useful in the context of the timescale set out in Principle 1 regarding ‘disposal of assets where completion can be guaranteed by 31 March of the relevant financial year and to the required amount’
- It was suggested that the Council may wish to consider leasing empty properties as a source of income. It was noted that any proposal needed to accord with the CPSADWG principles.
- The Council continued to review the internal resources needed to deliver the required asset disposals. It was noted that issues affecting the delivery were often due to external factors outside the Council’s control.

The Chair thanked the Chief Financial Officer for his presentation.

The meeting ended at 9.20 pm

CHAIR

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