

# Cheltenham Borough Council

## Audit, Compliance and Governance

### Committee

# Minutes

**Meeting date:** 22 October 2024

**Meeting time:** 6.00 pm - 8.15 pm

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**In attendance:**

**Councillors:**

Adrian Bamford (Chair), Ashleigh Davies, Chris Day, Cathal Lynch, Ben Orme (Vice-Chair), Julian Tooke and Dr David Willingham

**Also in attendance:**

Gemma Bell (Director of Finance and Assets and Deputy S151 Officer), Emma Cathcart, Lucy Cater and Claire Hughes (Director of Governance and Customer Services and Monitoring Officer)

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### **1 Apologies**

There were none.

### **2 Declarations of interest**

Councillor Willingham declared that one of the internal audit items concerns a planning application in his ward. He said he has spoken with constituents on the matter, and does not have any personal or prejudicial interest but mentioned it for the record.

### **3 Minutes of the last meeting**

The minutes of the meeting held on 10 July 2024 were approved as a correct record and signed accordingly.

#### **4 Public and Member Questions**

There were none.

#### **5 Update from Grant Thornton, external auditor**

In response to a question from the Chair, Peter Barber of Grant Thornton (PB) confirmed that the letter presented as Agenda Item 5 was written in September, at which point the date of the meeting hadn't been confirmed and the three actions required of CBC to meet the backstop requirements and complete the 2022-23 audits (set out as bullet points on Page 2 of the letter) had not yet been carried out. He was happy to confirm that CBC has now complied with all the requirements.

##### **5a Disclaimer of opinion due to backstop**

In response to questions from the Chair, Peter Barber (PB) confirmed that item 5A is the auditor's opinion which, subject the meeting today and government legislation in the next month, will appear in the final 2022-23 accounts. The disclaimer is the default wording appearing in many accounts across the country, and refers to the lack of capacity on both sides to complete the required work by 13 December – it does not mean that CBC hasn't produced its accounts in a timely fashion. Grant Thornton and the Deputy Chief Executive agreed some months ago that sufficient assurance could not be achieved in time this year.

The Chair sought reassurance from PB that CBC has complied with all the requirements of the regulations and published its financial statements for the year ending 31 March 2023 by the backstop date. PB confirmed that it is necessary to articulate these requirements in order to enact the backstop, and said it is clear that all have been met by CBC.

Regarding the Annual Governance Statement, PB confirmed that Grant Thornton has not taken a view. He said a quantum of work on statements, including governance statements, has been undertaken, but no work on numbers. Unless that work has been undertaken in totality, there would have to be some form of disclaimer; in this case, it was considered the best option not to undertake any of the work and to issue a disclaimer.

The Chair noted that there are several references to there being nothing to report regarding various matters, and asked for assurance that this isn't a negative about those matters, but simply reference to the fact that there was not sufficient time or resource to draw a conclusion. PB confirmed that this is the case, and in fact a positive in this respect: the role of the external auditor in the public sector is not only to confirm that the financial statement and accounts give a true and fair view of the organisation, but also to confirm that value for money work has been completed. This was presented in March in the Auditor's Annual Report, and 'nothing to report' in these areas confirms a positive assurance.

## **5b Audit Findings Report 2022-23**

Peter Barber (PB) confirmed that this document has been much longer and more detailed in previous years, setting out the findings of Grant Thornton's audit of the accounts, but given that no detailed testing has been carried out, a much abbreviated version of the findings has been presented this year. It includes the small amount of work done on the accounts, the value for money work previously reported, and some items of work to cover the potential fee, which is subject to Public Sector Audit Appointments approval.

The Chair understood that this had been discussed with the Deputy Chief Executive and Director of Finance and Assets, and that they are both comfortable with this position.

In response to Members' questions, PB confirmed that:

- the accounts were produced some time ago, the public inspection period has come and gone, and no comments or complaints have been received;
- Grant Thornton is required to give an indication of fee, and this year is a fraction of what would be charged in a normal year. He reminded Members that they received the annual report in March, which gave detail of the arrangement the council has in place to ensure value for money work - an ever-increasing responsibility for auditors, based on the National Audit Office code, which takes much longer than it used to. The indicative fee included the limited amount of work done on the accounts, and the final fee would be subjected to sign-off and approval by PSAA.

The Chair was concerned about the lack of clarity surrounding the additional cost of work carried out by Bishop Fleming and whether CBC would incur more cost than anticipated for the financial year.

A Member asked whether PB would acknowledge that regarding the final fee for 2023, his firm is taking a very limited if any audit risk in providing a disclaimer of opinion rather than signing off the accounts. PB said there is ongoing dialogue between all firms where backstop opinions are likely to be issued, about the basis of recharge and how to arrive at the final fees. Regarding risk, he pointed out that value for money conclusions are equally sensitive to risk, and in many cases are under greater press scrutiny and subject to potential adverse publicity, with many more cases of statutory recommendations and public interest reports being issued by auditors and a lot of value for money conclusions being qualified where auditors conclude that councils don't have arrangements in place in certain areas. Grant Thornton is comfortable in both these areas, and that when a full audit is carried out and final judgement reached, it will be based on a quality piece of work which can stand up to any challenge.

## **5c Auditor's Annual Report 2021-22 and 2022-23**

In response to the Chair's request to run through the recommendations in the report, PB said the report presented today is the same report that was presented to the committee in March and discussed at length then with regard to content, judgement and key recommendations. It was called an interim report at that stage because it cannot be called a final until the auditor is in a position to issue an opinion on the financial statements. It is important for Members to note that on the value for money work, no significant weaknesses were identified in any of the three areas – financial stability, governance, and economy, efficiency and effectiveness. He was happy to elaborate if Members required any further information.

The Chair asked for confirmation that the situation was the same as presented in March and any concerns were not amplified. PB confirmed that the judgements and recommendations were based on Grant Thornton's independent view of CBC's arrangements for 2022-23, and it is clearly up to Bishop Fleming to articulate how they will discharge their role going forward. The Chair was keen to ensure that the committee couldn't be accused of not giving proper consideration to the report; Nathan Coughlin of Bishop Fleming said he would follow this up in his report, with reference to risk assessment and value for money work.

PB continued that, subject to approval and signing of the 2022-23 accounts and letter of representation, Grant Thornton will wait for the legislation to be passed in November whereby the government will approve the National Audit Office intention to apply the backstop. He anticipates issuing a backstop opinion which will in turn find its way into our accounts, close the audit for 2022-23, and give a clear run at 2023-24, the ramifications of which will be articulated by Bishop Fleming.

The Chair conceded that this is not a great situation to be in, but at least we know what should happen and can hopefully sign off 2022-23 and 2023-24 audits in due course.

He thanked PB and Grant Thornton for all their work at CBC, and for leaving the council in as strong a position as possible under difficult circumstances. PB thanked the committee and officers for their constructive and professional working relationship through challenging times, and wished them the best for the future.

## **6 2022-23 Final Accounts, including Letter of Representation**

The Director of Finance and Assets confirmed that the 2022-23 statement of accounts were originally published by the statutory deadline of 31 May 2023, and said that subject to approval today, officers will go ahead with the disclaimer opinion, close down the final statement of accounts in line with the backstop for 2022-23, and move on to the audit for the 2023-24 accounts which were published in May this year.

She thanked the finance teams of CBC and CBH, now working together as one team, for their hard work on a complex set of accounts.

A Member commented that he and three other newly-elected committee members were not councillors during the period covered by the accounts, and had only had a limited amount of time to consider them. Given their limited involvement, he asked for reassurance that the Director of Finance and Assets stood by the accounts and letter as circulated with the agenda. The Director of Finance and Assets confirmed that the accounts had been in the public domain since 31 May 2023, and open for public inspection in line with statutory requirements. She confirmed that there had been a number of revisions to the original numbers as new information has become available, such as the audited accounts for Gloucestershire Airport and CBH.

In response to Members' questions, the Director of Finance and Assets confirmed that:

- the significantly lower central government grant income in 2021-22 and 2022-23 could be explained by the fact that the council was still receiving Covid recovery grant funding in 2021-22, including direct grant income and grant income to compensate for lost income in different income streams on which the budget is based; this funding was not available in 2022-23. The Chair added that central government grant funding had been dwindling for the last decade;
- there are no statutory overrides on CBC's accounting (whereby a significant amount of debt does not have to be shown on the accounts);
- the annual governance statement is part of the report, not an appendix.

#### **RESOLVED THAT:**

- **the final statement of accounts 2022-23 and letters of representation for 2022-23 are approved.**

#### **7 Update from External Auditor and the 2023-24 Audit Plan**

Nathan Coughlin (NC) of Bishop Fleming introduced his report, the external audit plan for 2023-24, now that 2022-23 has been wrapped up. He highlighted the following:

- Section 1 is a reminder of the scope of the audit – to give a true and fair view of the financial statement and make sure it complies with the code of practice;
- the group accounts include accounts for CBH and Gloucestershire Airport Ltd. Bishop Fleming has audited CBH for a number of years which helps the consolidation process, and will issue group instructions to Hazlewoods, who audit GAL. GAL figures are not material at income and expenditure level, but are material to the balance figures and work needs to be done to rely on that;
- the value for money work gives assurances on financial stability, governance and improving economy, efficiency and effectiveness. Any recommendations raised by Grant Thornton will be put into the risk assessment and followed up through the current year;

- auditors picking up backstop audits are developing programmes of work to get to a point in the future where they can give clean rather than disclaimer opinions; Bishop Fleming hope to be able to give clean opinions from March 2025 thereon;
- regarding risk, the initial assessment is based on discussion with management and consistent with risk areas raised by Grant Thornton in the past. Bishop Fleming proposes to rebut the significant risk of fraud and revenue/expenditure recognition because they are straightforward and the nature of the income and expenditure streams is consistent. There are risks around valuations due to large numbers and estimates from management experts each year, and also around pension fund liability, where assurance is needed from the County Council scheme pension auditors that they are comfortable with the overall asset value of the scheme;
- the timetable is protracted this year due to Bishop Fleming starting late and challenges around turn-around time, but key targets are to get local audits back on track and improve the reputation of audits in the local government sector. This will require intense work in the months to come, including a review of Grant Thornton's files and work on the 2022-23 accounts, and detailed testing work to get assurances over processes systems;
- regarding fees, scale fees are set by the Public Sector Audit Appointments (PSAA) and through a tender process; auditors are in effect subcontractors, with fees coming out of the scale rate depending on the size of the organisation;
- finally, additional work on the 2023 records is underway, confirming what needs to be done to get to the right position, depending on the materiality of certain balances and reserves and how to get assurance as quickly as possible. Teams are actively involved in sector-wide work to develop an approach for this, to get a clear backlog position, but with work still in progress and various elements of judgement required, this will be different for each organisation. Bishop Fleming will continue to report back and communicate, and work with management to develop a plan.

The Chair commented that the backstop offers a fantastic opportunity to get back on track but also carries risk, and hoped that there would be some leeway in how the sign-off for 2022-23 is viewed.

In response to Members' questions, NC said that:

- regarding the approach taken to valuation of assets and pension liability, Bishop Fleming is neither optimistic nor pessimistic, but looks at the different techniques and methods used by management experts carrying out valuations, together with internal guidance of auditors in the sector, to assess whether the valuations are materially accurate. In a rolling cycle, they also consider what hasn't been valued, such as the effect of increased heating costs on the valuation of a leisure centre;
- for pensions, there are a lot of assumptions with regard to future liability and present value, but these matters are important for the financial statements, when stripped out for the overall financial health of an organisation, year-end pension accounting is not a key measure or focus;
- as a firm, Bishop Fleming is hoping for a clean audit by 2024-25, but there is a lot of discussion in technical groups across the sector around uncertainty,

particularly in reserves – these are not as straightforward as a corporate set of accounts, and if not signed off, it isn't clear how much additional work on them will be needed. This is also true of the fixed assets position, but the reserves position is the biggest challenge to technical teams at the moment.

In response to a new Member of the committee's request for an explanation of the backstop/backlog position, NC said that:

- the backstop is an attempt to clear the audit backlog, which for CBC only applies to 2022-23 accounts which were not signed off in that financial year, but in some organisations and councils applies to multiple years. The backstop approach draws a line in the sand, including disclaimers in accounts for anything not finished from 2023 or earlier, and puts a reset phase in place. This is what Grant Thornton has done for CBC's 2022-23 accounts;
- the sign-off deadline dates will slowly move forward until they are broadly where they used to be - September of the subsequent financial year – to stop tying up resource looking at things that are simply too old to consider.

The Chair confirmed that this is a public sector problem, not occasioned by late accounts – CBC has consistently presented its accounts by the required date. Although the 2022-23 audit cannot be fully signed off, it is good to know that something is being done at national level to address the unsustainable backlog in external audits for public sector accounts. The Director of Finance and Assets said this has had an impact on CBC and has made additional work for the finance team, having to update figures and refresh balances in the 2022-23 accounts following sign-off of the 2021-22 audit. It is good to have a plan in place to move forward, so that there is only the need to balance one year at a time.

## **8 Internal Audit Progress Report**

The Assistant Director SWAP introduced herself to new Members, and said that the progress report presented this evening is an update of the work her team is currently undertaking, including four final audits. She said the actions agreed with clients are followed up in the second part of her report.

A Member raised concerns about matters still outstanding in relation to the Planning Services Review, namely:

- members of the public left the planning meeting in March under the impression that the application had been refused; there was no proper communication, which undermined public confidence;
- the application was submitted in 2023, six years after adoption of the Joint Core Strategy, Policy SD12 of which requires viability assessments to be published; the council has not been complying with its own policy;
- the decision notice has not been published, preventing residents from being able to request a judicial review against the council for not following its own policy;
- the council has failed to take account of Public Sector Equality Duty, leaving elderly and disabled residents to live next door to a building described by a Planning Committee member as looking like a prison.

The Chair shared these concerns, and agreed that action was needed to ensure the proper process was followed with regard to viability assessments. The Director of Governance and Customer Services noted that work was still ongoing regarding this, but said she would investigate why the decision notice had not been published. Regarding PSED, she confirmed that the council is looking at policy on Equality, Diversity and Inclusion (EDI), including a whole section around planning and licensing applications, and assured Members that there would be improvement in these areas moving forward. In addition, a more detailed set of procedure notes and a flow chart are being developed for the Chair, to ensure the proper process is followed.

The Assistant Director SWAP also confirmed that one of the agreed actions is that viability assessments must be published.

A Member asked that, given the diversity of cases, the learning of flow charts and the decision-making process is taken for all regulatory committees and matters, to ensure anyone chairing meetings is fully informed.

The Director of Governance and Customer Services confirmed that there has been one complaint from objectors regarding the second application; this was responded to and no further action has been taken, as far as she is aware.

In response to further questions from Members, the Assistant Director SWAP confirmed that:

- duplicate payments represent a very small percentage each year (she will share the precise figure via email), money is quickly recovered, and the process has usually started by the time the duplicate is identified. She said the errors noted in the audit were due to error, not fraud;
- regarding procurement and appointment of consultants, she confirmed that an appropriate register to use when appointing would be included in the list of agreed actions;
- regarding the agreed actions, she said some of these are coloured red on the timescale to tie in with the graph beforehand, showing when the action is due

The Director of Governance and Customer Services added that these relate largely to Freedom of Information requests, and we are in the process of building a system through a new Netcall platform. This work is running behind schedule due to other online projects taking priority. The Director of SWAP confirmed that the build on the system started last month, with an estimated completion date of January 2025.

In response to a Member question regarding non-compliance with the code for transparency data, due at the end of March, the Assistant Director SWAP said some actions were complete, but housing services needed to be added to the organisational structure pay grades needed to be linked, and senior officers' pay needed to be published.

In response to a Member question regarding procedures and policies for service charges at James Donovan Court, the Director of Finance and Assets said that this



work was underway, and since the audit was concluded, a tribunal hearing had taken place, some actions were still to be completed as part of that, but all would be brought together and completed in one go.

In response to a Member question regarding the employment of consultants, the Director of Governance and Customer Services confirmed that some are engaged for their specialist knowledge in specific areas, such as the Interim Director for Housing Transformation, and some are taken on due to gaps in the market, particularly around planning with there is a national recruitment issue at present. In these cases, she confirmed that HR are looking at how to attract, recruit, employ and retain staff, including a pay and grading review.

Responding to further questions, the Assistant Director SWAP said that:

- regarding the S106 recommendations and the deferred conclusions from July and now due to be resolved at the end of October, one of the agreed actions is closed and it is possible that the others will be closed in the next ten days;
- regarding timescales and whether these are definitive for completion of the actions or for further review, agreed actions are discussed with the client but internal auditors cannot set a immovable timescale. It is an agreed action at a particular point, but with knock-on effects of various aspects of the work, auditors have to be pragmatic and sometimes extend the timelines;
- regarding the escalation process to move forward when actions are overdue, the team is proactive on all agreed actions and follows up when the deadline passes. If necessary, they can escalate through the Monitoring Officer, Deputy Chief Executive, governance group, or in certain cases, through this committee, which has the opportunity to raise concerns and call officers to explain why their actions have not been concluded.

## **9 Counter Fraud and Enforcement Unit update**

The Head of Service Counter Fraud and Enforcement Unit (CFEU) introduced herself to new Members and explained the remit of CFEU. She said her report is an update on projects, strategic and reactive work, and ran through the wide range of work undertaken by her team.

Members thanked the CFEU for their work and excellent results.

In response to Members' questions, the Head of Service CFEU confirmed that:

- regarding the review of the housing waiting lists, there are many reasons why applicants are removed or downgraded. Initial assessments could be wrong, individuals have been rehoused and in some cases there is fraud or error. By reviewing the lists across the partnership, officers work hard to ensure Gloucestershire as a whole is robust. In addition to the work delivered by the team, housing officers also carry out their own verification and assurance checks;
- the team do feed back to the National Fraud Initiative (NFI) in terms of the match outcomes and any pilot projects of which they are a part. The council is part of a pilot project relating to housing and tenancy fraud using data provided by the

council, credit agencies and AirBnB. Housing benefit matches are now mostly referred to the DWP for investigation and this has been fed back. The team and NIF are always looking for ways to improve delivery, and are currently carrying out work relating to deceased people and council tax liability;

- on the subject of planning enforcement, this CFEU does support some councils in this area and has assisted CBC staff.

Members were concerned that planning breaches are only followed up if they are reported by the public, and regretted the lack of accountability, saying that there should be a process to ensure that planning is carried out in accordance with the permission granted. The Director of Governance and Customer Services said she would take this off line and follow up the reporting mechanism, and the Head of Service CFEU confirmed that the team will be delivering enforcement training for teams across the council, including planning, in November

A Member pointed out that the licensing team generally works on its own with OneLegal to carry out any enforcement action internally, such as unlicensed drivers working in Cheltenham during race week, via PACE interviews and possibly prosecution – although this is a long process.

## **10 Review of Risk Register**

The Director of Governance and Customer Services introduced the current version of the strategic Risk Register, which covers corporate risks as opposed to the operational risk registers at service level. She drew Members' attention to the top six risks listed at Para 2.7, which include the corporate housing risks for the first time following the transfer of CBH, and also to note that eight risks have been removed since the last review, largely around the MX and CBH transfer.

A Member commented that the lack of change with the high risks is presumably not as worrying as it might seem as these are almost irreducible, but said it was good to note when a new high risk was emerging.

The Director of Governance and Customer Services confirmed that some risks are out of the council's control, which is why there is no change in the scoring. She said a review date is set for each risk, but they stay on the register as they remain a risk for the council.

In response to Members' questions, officers confirmed that:

- Concerns about the future of community facilities around the borough, which are essential to the communities they serve, fall under operational rather than the strategic risk register. There will be a Cabinet decision about St Mark's on 26 November; other communities centres operate with different leases and arrangements, and any concerns can be picked up off line;

- the potential closure of a number of community centres at once could be viewed as a corporate risk. The Director of Finance and Assets said the strategic impact would have to be considered, and this would therefore be considered as part of Risk 403 from an officer perspective – with a number of projects and buildings, both operational and strategic, and a finite pot of resources to invest across the town;
- regarding the cyber security risk following recent events at Tewkesbury Borough Council, this has been reviewed and assurance given that CBC's systems are as well protected as they have ever been;
- a dot on the far right of the matrix shows that the risk is highly likely to materialise if mitigation action isn't taken.

No vote was required on this item.

## **11 Review of Risk Management Policy**

The Director of Governance and Customer Services said the Risk Management Policy had been reviewed and refreshed to reflect the coming-together of CBC and CBH, to ensure that all risks are captured in one document, retaining CBC's 5x5 matrix. She thanked Members who had read and contributed to the draft.

A Member welcomed the incorporation of his suggestions, particularly where individual medium risks could become one major risk where they are subject to the same triggers. He was pleased to note that the second stage - looking for common triggers, to understand the totality of the picture - is now part of the policy, and considered it to be stronger for it. As an example, he suggested that if the council was to undertake six significant building projects at one time, and one was over-budget, the risk would not be significant, but if all six were to be over budget, additional action would be needed.

### **RESOLVED THAT:**

- **the updated Risk Management Policy is approved.**

## **12 Any other item the chairman determines to be urgent and requires a decision**

There were no other items or urgent business to be considered.

## **13 Date of next meeting**

The next meeting is scheduled for 22 January 2025.