

# Cheltenham Borough Council

## Audit, Compliance and Governance

### Committee

# Minutes

**Meeting date:** 10 July 2024

**Meeting time:** 6.00 pm - 7.05 pm

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**In attendance:**

**Councillors:**

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

**Also in attendance:**

Jaina Mistry (Principal Auditor), Paul Jones (Deputy Chief Executive (Section 151 Officer)), Adam Morley (Senior Auditor), Beth Cordingley (Interim Head of Customer Services and Business Support) and Tracey Birkinshaw (Director of Community & Economic Development)

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### **1 Apologies**

Apologies were received from Councillor Tooke.

### **2 Declarations of interest**

There were none.

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

The minutes of the meeting held on 17 April were approved by members of the committee who were present at that meeting.

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

There were none.

## **5 Internal Audit Opinion for 2023-24**

The Principal Auditor (SWAP) introduced the report, which she said offered low-reasonable assurance due to the identification of three limited audits: grants income, the S106 process, and CIL governance review.

The Director of Planning was in attendance to answer Members' questions on these issues, and also on previously-raised concerns about planning enforcement.

In response to a Member's question about reconciliation of systems as detailed in the S106 report, she confirmed that this is the root of the issue, with information being held on in slightly different ways on Business World (the corporate finance system), Exacom (the specialist CIL system) and separate spreadsheets. Whereas there has previously been just one annual reconciliation to inform the Infrastructure Funding Statement that is considered by Cabinet in December, it has now been agreed as part of the improvement plan that there will be several reconciliations across the year, which will be incorporated into the quarterly performance reports in the Budget Management process and also reported to Planning Committee. Two separate systems will still need to be used but the spreadsheets will fall away.

The Deputy Chief Executive explained the two audit regimes to Members new to the committee, saying that internal audit acts as a management tool, ensuring safe decision-making, policies and processes. He said that the Director of Planning had recognised the problems with S106 and CIL, and asked SWAP to audit the processes and recommend improvements, which are now being put into action.

A Member asked about monitoring of S106 contributions between the borough and the county, and what could be done to ensure that the contributions are being collected and spent within the spend-by deadline.

The Director of Planning said that in Gloucestershire, the county council negotiates and monitors separate S106 agreements, particularly with regard to highways and education, while CBC monitors its own S106s. She acknowledged an issue here, with the possibility of contributions falling between the cracks, and said that, on the advice of the Planning Advisory Service, Gloucestershire has embarked on a trial tripartite approach with the county council. Changes to the monitoring processes will be needed but this is being looked at.

Looking for further clarity about monitoring, the Member said he understood that the borough collects CIL contributions as the local planning authority, and should then be handing this to the county for big ticket items such as highways, yet the county suggests that it is not receiving the funding. He was concerned that contributions could languish in a bank account for many years, rather than being spent on the areas for which they are intended.

The Director of Planning said that it was agreed last year to establish a CIL Joint Committee between Cheltenham, Gloucester and Tewkesbury, pooling their contributions, and with two main functions: to allocate funding and to monitor how projects are delivered. The county council has been very much involved in setting up the joint committee, and will be part of it, though not a voting member. She

explained that there are two elements to this: neighbourhood and strategic. CBC's neighbourhood CIL committee has already met and allocated all its funding via a transparent process, and the three councils are due to meet for the first time in the Autumn to discuss strategic allocations, which haven't yet been spent due to the extremely high cost of strategic infrastructure and the need to build up a significant pot before actively investing in projects. When the joint committee was set up, each council took the opportunity to refresh its priorities, and these now form part of the interim collective infrastructure list; when the committee meets, it will make the first allocations, and decide whether to allocate some or all of the funding. There will be a clear monitoring process going forward, with clear delivery milestones, overseen by the joint committee

The Chair confirmed that both CIL and S106 actions would come back to future meetings as part of the action plan, allowing Members to check on progress.

A Member asked about the accounts payable report, noting that 58% of the transactions processed were not supported with a purchase order, and questioned what controls and processes are in place to identify potential overspends before they happen. The Deputy Chief Executive said that CBC operates devolved budgetary management, with a centralised finance team and a dedicated business partner accountant serving different areas of the council's business. They go through budgets, forecasts, projections, likely income and expenditure with their service managers on a monthly basis and regularly update the leadership team on finance. The focus is on big ticket items – over £50k; the budget monitoring report is presented to Cabinet quarterly, and the formal outturn report is presented to full Council in July. He would like to implement a 'no purchase order no pay' policy but this would be ineffective with a significant number of invoices under £100.

Returning to the ongoing matter of planning enforcement, a Member asked for confirmation that the review would be considered by Cabinet in September, and that the planned Member consultation would take place over the summer to inform the report. He said planning enforcement is a matter of importance to Members and the public across the town.

The Director of Planning explained that planning had had a resource crisis for many months, with four heads of planning in a short time, and a replacement for the long-serving enforcement officer yet to be found. However, since securing a new permanent Head of Planning seven months ago, a planning enforcement review has been a priority. The draft, approved by the previous Cabinet portfolio holder, is now being refreshed with the new Cabinet Member, and will be considered by Overview and Scrutiny who will feed into the Cabinet decision. Officers are focussing on the task and will hold conversations with Members to inform the report; if this is not possible over the summer months, then the item will slip to the next available Cabinet meeting.

The Chair noted that apart from the three areas of limited assurance, which are being worked on, everything else seems to be working well.

## **6 Information Requests Annual Report**

The Interim Head of Customer Services and Business Support took her report setting out the details of handling FOI and EIR requests as read, saying transparency and accountability were fundamental to the authority. This year it handled 1024 requests, 88% more than last year, and maintained standards with 91% of these requests being answered within the 20-day time limit.

In response to Members' questions, she confirmed that:

- resourcing issues in Planning have resulted in their lower response times, but there has been significant improvement since the new Head of Planning has been in post;
- regarding corporate projects, these are also no longer an issue; CBH hit a rocky patch when their FOI officer left, but this has also been resolved;
- one particular reason for the increase in requests is that from April a company found a way to bypass Con29 requests, submitting up to 100 per month. These were all refused as unreasonable or on the grounds of costs, and it was eventually agreed that 20 such requests per month was reasonable;
- another reason for the increase is the repeated requests from conspiracy theorists; some have to be answered, but when vexatious patterns of behaviour start to emerge, they are refused;
- Members are not subject to FOI requests, but their work as councillors or on behalf of the council is. Members and the FOI team know that any request about non-council business will not be accepted;

In view of the number of EIR requests and the loophole mentioned, a Member wondered whether it was worth requesting that the Local Government Authority lobby for the loophole to be closed if possible. He suggested that if this is causing problems for CBC, it is likely to be causing problems for other authorities, and taking away public resource that could be used elsewhere. The Interim Head of Customer Services and Business Support said this appears to be a local problem but agreed that others might follow suit and it could be worth exploring routes to change the legislation.

A Member asked how CBC's FOI and EIR requests compare with other authorities of similar size. The Interim Head of Customer Services and Business Support didn't have the figures to hand but said she would provide these as soon as possible.

## **7 Review of Risk Register and Corporate Risk Update**

In the absence of the Head of Corporate Services, the Deputy Chief Executive introduced her report, summarising the details of risk movement since the last formal report as requested by Members. He confirmed that a full review of the Risk Management Policy would be undertaken following the transfer of CBH to CBC, and that this would be presented to the committee in September.

He drew Members' attention to the four top risks – medium-term financial strategy, prioritisation of capital resources, Swindon Road Depot, and the Golden Valley

Development, and the two new corporate risks added since the last report: prioritisation of capital resource, and the Petersfield Hub, where a number of stakeholders were undertaking a formal review to ensure that resources were available to carry the project through. He said Gloucestershire Airport had been removed as a corporate risk as it is going through the sales process.

A Member commented that the council's financial risks relating to the Petersfield Hub are well-documented, but noted that the risks to the community of non-delivery are not captured. As ward member for St Peter's, he said delivery of the project is really important, and he welcomed its inclusion on the risk register.

In response to a Member's question, the Deputy Chief Executive said that new and emerging risks are identified by the leadership team, who scan everything that is going on and match this against corporate priorities, and also by the corporate governance team. He said risks have to be identified in order to exist, and although he would like to think that the register presents an exhaustive list, there are probably more. The register gives prior notice of potential risks if the council doesn't take any action.

A Member noted that the key risks have remained more or less the same for two years, and are difficult to reduce, whatever actions the authority may take, and wondered if anything else could be done to reduce them. The Deputy Chief Executive said that risks are constantly reviewed, and repeated that the actual risks only exist if the council takes no action.

## **8 Annual Governance Statement and Local Code of Corporate Governance**

The Chair pointed out that the dates show in the recommendation were incorrect, and the Deputy Chief Executive confirmed that:

- the Annual Governance Statement referred to 01 April 2023 – 31 March 2024, and was a reflection on the last year;
- the Local Code of Corporate Governance related to 2024-25 and was forward-looking. It included the TUPE requirements for CBH staff.

He asked Members to formally approve the draft.

There were no questions, and Members approved the following recommendation:

- **that the draft 2023-24 Annual Governance Statement and the 2024-25 Local Code of Corporate Governance are approved.**

## **9 Work Programme**

The Deputy Chief Executive explained the backstop situation to new Members, saying that the council's previous auditors, Grant Thornton, had proposed drawing a line on 2022-23 accounts and handing over to the new auditors, Bishop Fleming, but following the general election, CIPFA has issued a statement to say it is minded not to support the backstop now and to work out other ways to streamline accounts.

This leaves the council in a state of limbo, and a meeting with the previous auditors is planned to discuss the way forward. The draft accounts were published by the statutory deadlines and are waiting to be audited, but ISO260, the statement of accounts, and the audit findings report are unlikely to be presented in September.

In response to a Member's question, he confirmed that the value-for-money work was concluded and signed off for 2021-22 and 2022-23. The value-for-money work on 2023-24 will come under the remit of Bishop Fleming.

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

There was no other business to be considered.

#### **11 LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**

##### **RESOLVED THAT:**

##### **The following resolution is approved :-**

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 3 and 7 Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 7: Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### **12 Exempt Minutes of last meeting**

The exempt minutes of the meeting held on 17 April were approved by members of the committee who were present at that meeting.

#### **13 Date of next meeting**

The next meeting is scheduled for 25 September 2024.