

Audit Committee

Supplementary Information



Date: Monday, 23 November 2020

Time: 2.00 pm

Venue: Virtual Meeting - Zoom Committee Meeting with Public Access via YouTube

6. Public Forum

Up to 30 minutes is allowed for this item.

(Pages 2 - 13)

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to democratic.services@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on **Tuesday 17 November 2020**.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **Friday 20 November 2020**.

Issued by: Allison Taylor, Democratic Services
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Date: Friday, 20 November 2020



Public Forum

Audit Committee

23 November 2020



1. Members of the Audit Committee

Questions		
Agenda Item	Name	
8 and 9	Suzanne Aubrey	
8	Councillor Jerome Thomas	

Statements		
Agenda Item	Name	
8 and 10	Councillor Geoff Gollop	
10, 12 and 15	Councillor Clive Stevens	



Suzanne Audrey.

Bristol Energy

I understand there has been a request for a Public Interest Report in relation to Bristol Energy. There was a Public Interest Report in relation to Robin Hill Energy in Nottingham, and there are many people in Bristol who would like to understand what went wrong and why so many millions of pounds were lost to Bristol Energy.

Question. On what grounds would a Public Interest Report into Bristol Energy be refused?

Response - The statutory basis for auditors consideration of reporting in the Public Interest is in accordance with the Local Audit and Accountability Act (s24 and schedule 7) (the Act).

The National Audit Office's Code of Audit Practice, pursuant to the Act says, "The auditor should consider whether, in the public interest, they should report on any matter that comes to their notice so that it is brought to the attention of the audited body and the public. When preparing and issuing reports in the public interest, the auditor should tailor their approach to the urgency and significance of their concerns. The auditor should make a report during the audit if they consider the matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency. The Code goes on to say "In considering whether to exercise any of their additional powers and duties, and in determining the time and resource to be spent on dealing with matters that come to their attention, the auditor should consider the relevant requirements of the Act and:

- the significance of the subject matter;
- whether there is wider public interest in the issues raised;
- whether the substance of the matter has been considered previously by the body's auditor;
- whether the substance of the matter falls within the scope of work conducted by an inspectorate or other body;

- the costs of dealing with the matter, bearing in mind that these are borne by the taxpayer; and
- in the case of objections, the rights of both those subject to objection and of the objector (not relevant in this case).”

The decision on whether or not to report in this manner is therefore at my discretion, taking the above into consideration. I will be guided by my experience as a local authority external auditor and my knowledge of those matters that have and have not met the threshold for public interest reporting elsewhere. I will also consult with appropriate colleagues and may take independent legal advice on the matter, if I consider necessary.

Suzanne Audrey

Annual report of the local government ombudsman

In the letter to Bristol City Council it is stated: "This year I have had concerns about your Council providing delayed responses to investigation enquiries. In several cases the introduction of a new complaints IT system was cited as the reason for the delay. In some instances, the Council had no trace of our enquiry letters, emails were not responded to, and letters had not been forwarded to the appropriate officers. The Council was unable to access information to respond to one set of enquiries because it was stored on the personal computer of an officer on long term sick leave."

Such delays are also evident when members of the public ask for information, which means matters escalate to complaints or Freedom of Information Requests, for which responses are also delayed or non-existent.

Question. What can be done to improve the Council's response to enquiries from the public and relevant outside bodies?

Response - The annual letter refers only to cases they investigated, which was 160. The Council responded to around 7,000-8,000 cases per year resolved without any Ombudsman involvement.

During the transition from our old IT system to our current one in August 2019 we maintained a performance level of around 85% of complaints answered on time (within 15 working days).

The IT system migration did cause significant problems when dealing with the 160 Ombudsman cases in the annual letter. Over 80% of the cases were first recorded on our old system, when the Ombudsman investigated any of these cases it was very difficult our Complaints Coordinators to access the records. This was the main cause of delays in responding to the Ombudsman.

In terms of improvements, now that over a year has passed since we started recording new cases on the current system (started in August 2019), any escalated Ombudsman cases can be easily retrieved and a good service can be given again. We have put in place further resource and monitoring processes relating to Ombudsman cases.

Cllr Jerome Thomas – Agenda item 8: External Audit Update Report

Questions to the external auditors regarding Bristol Energy Governance Arrangements 19/20 and impact on Value for Money considerations for the Audit Committee meeting 23 November.

Background

I hope that when you publish your Value for Money conclusions that you will share as much as possible of the Strategic Overview and Detailed Review of Bristol Energy that you have referred to in your Progress Report.

Question 1 - What are the criteria that you will use to decide whether you will agree to the request for a Public Interest Report?

Response - The statutory basis for auditors consideration of reporting in the Public Interest is in accordance with the Local Audit and Accountability Act (s24 and schedule 7) (the Act).

The National Audit Office's Code of Audit Practice, pursuant to the Act says, "The auditor should consider whether, in the public interest, they should report on any matter that comes to their notice so that it is brought to the attention of the audited body and the public. When preparing and issuing reports in the public interest, the auditor should tailor their approach to the urgency and significance of their concerns. The auditor should make a report during the audit if they consider the matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency. The Code goes on to say "In considering whether to exercise any of their additional powers and duties, and in determining the time and resource to be spent on dealing with matters that come to their attention, the auditor should consider the relevant requirements of the Act and:

- the significance of the subject matter;
- whether there is wider public interest in the issues raised;
- whether the substance of the matter has been considered previously by the body's auditor;
- whether the substance of the matter falls within the scope of work conducted by an inspectorate or other body;
- the costs of dealing with the matter, bearing in mind that these are borne by the taxpayer; and
- in the case of objections, the rights of both those subject to objection and of the objector (not relevant in this case)."

The decision on whether or not to report in this manner is therefore at my discretion, taking the above into consideration. I will be guided by my experience as a local authority external auditor and my knowledge of those matters that have and have not met the threshold for public interest reporting elsewhere. I will also consult with appropriate colleagues and may take independent legal advice on the matter, if I consider necessary.

Question 2 - When will you be publicly sharing your conclusions regarding Value for Money 19/20?

Response - My publicly available Audit Findings Report is now planned to be presented to the Council's Audit Committee January meeting, although this will be subject to our completion of the supporting audit work. I will issue my formal conclusion on the Council's arrangements for Value for Money following presentation of my findings to the Committee and at the same time as I report my audit opinion on the Council's financial statements for 2019/20. The formal VFM conclusion and financial statements opinion will be published by the Council as part of its audited financial statements for 2019/20.

Access to information item 10 Linked to External Audit progress report item 8

My concerns fall in to 4 separate sections

- a. The report deals with the Councils legal view of accessing papers. The concern of the committee was about the imposition of unfair rules and regulations to prevent members having **physical access** to papers
- b. The **concept of restricted access** to any papers is contrary to the audit committee's objectives and the role expected of it by members of Council. The "need to know" is wider than the agenda for any one meeting
- c. Specifically, the restriction of access should prevent the committee from approving the **annual accounts and signing the letter of representation**
- d. The issue regarding **Bristol Energy and the finalisation of the 2020 Financial statements**

I deal with each of these points below.

- a. Physical Access

This issue arose when it became apparent that the committee was being asked to approve the 2019 accounts without having seen the second EY report into Bristol Energy. Whilst Scrutiny members had been trusted to access the report online, Audit Committee members were reluctantly told they had to come to City Hall during the first lockdown. Eventually members were allowed to see the report over zoom with Democratic services staff turning the pages. It is unacceptable that Audit Committee members are treated as second class councillors compared to scrutiny.

There has been no explanation as to why Audit Committee was not allowed the same access as scrutiny. The report should be amended to confirm that in future any confidential reports will be made available through restricted online access

- b. Concept of restricted access

Audit Committee is unlike any other member committee. It should not be political, but it is responsible for ensuring that governance is exercised properly and that the financial statements are correct and complete with no

omissions. Audit committee should have the potential to access any papers prepared within or for the authority, to assess whether it is in accord with the appropriate governance procedures. Often members will rely on Officer Assurance, but that cannot preclude the option to examine documentation for themselves.

I accept that on other committees the “need to know” approach may be justified, but in the case of audit, that cannot be applied to agenda items alone. The Committee needs to know about any issues that could be relevant to its role, not just relevant to the agenda of the meeting. Committee needs to know whether any papers prepared by or for the Council could impact on its role in relation to governance, risk management or the statutory accounts. This report ignores that need.

I accept that there may be different rules applying to Public sector audit committees, so we should seek guidance from our auditors. I believe we should ask Grant Thornton- whether they would expect there to be a policy in place which prevents confidential papers coming to Audit Committee, and how audit commit can give them Assurances when they may not know about or have seen the relevant documentation .

c. annual accounts and signing the letter of representation

This issue is particularly pertinent when it comes to the signing of financial statements. 2019 accounts were tabled for the meeting on 28th May. Had I not been substituting at that meeting the accounts would have been approved then. As I had seen the second EY report and believed it to be relevant to the 2019 accounts and the note regarding the carrying value of Bristol Energy, I drew the existence of the report to members of the Committee. Neither the external auditors or the committee had seen the report at the time they were being asked to sign off accounts

My understanding is that Audit Committee has a right to assume that the council has made available all information relevant to the audit of the accounts and signs the letter of representation believing that to be the case. This was clearly not justified at 28th May. The Committee needs to assess how it can receive those assurances and officers need to identify how to restore confidence and trust with the committee and the external auditor

I believe it is unacceptable that officers can decide that audit committee are not allowed to see any papers, whilst also deciding whether they are shown to

the auditors or not. I do not see proper Governance processes in operation here.

If any restriction exists, then the committee should refuse to approve future accounts or to sign off a letter of representation because it cannot be certain that it is giving a correct response to the auditors

Officers need to establish a proper protocol with audit committee to overcome the issue of restricted

d. Bristol Energy and the finalisation of the 2020 Financial statements

The seriousness of Bristol Energy's financial position was clear from the cabinet report to 3rd March Cabinet and the decisions made at that meeting acknowledged that the company could not carry on trading in its own right. That decision had been identified before the end of the 2020 Financial year. The second report from EY subsequently confirmed what had been expected, that any proceeds of sale would be unlikely to cover the additional costs, and therefore the carrying value would have to be written off.

Members have been repeatedly told that we cannot see the final costs until the figures have been quantified. However, on the basis of the second EY report we know that at the very least the carrying value in the 2019 accounts will need to be written off in addition to the £12m already written off and that further provision is likely to be required for the £6m of additional investment since the 2019 accounts.

In their update Grant Thornton say the accounts will be brought to the January meeting of audit Committee. The treatment of the carrying value of Bristol energy and the extent of the loss is material and fundamental to the understanding of those accounts. It would be wrong for officers to use confidentiality to refuse to disclose the treatment of the loss until the accounts are released to audit committee

In advance of that meeting officers need to confirm full provision for the investment will be made in the 2020 accounts, how much that provision will be and provide details of that calculation to audit committee. Audit committee should ask officers to confirm that covers all anticipated costs and ask Grant Thornton's view on the completeness of the provision.

Geoff Gollop 19/11/2020

Statement to Audit Committee 23/11/20 Councillor Clive Stevens

Dear Committee – These were originally sent in as questions but they haven't been allowed, so I have resubmitted this as a series of statements – Best Regards – Clive

Agenda item 10 – Access to Information - Councillor Clive Stevens

Good democracy underpins everything. It is the basis of our personal freedoms, fairness and the foundation of an economy that provides for peoples' needs.

I am trying to inject some local democracy back into Bristol's Local Government.

In the UK many people think that democracy is broken and this paper illustrates just why. It blocks the access of the Council's Audit Committee to the very information we need to assure ourselves that this Local Authority provides value for money to its electors. Some of those blocks are national laws and some are local practices. For example the Monitoring Officer exercises judgment in whether the public interest to publish outweighs the interest in maintaining the exemption.

We are told that we are to take our assurance from the work of Statutory Officers. But for some of us, trust is broken (see agenda 15) and without trust we cannot be assured by officers. We need the facts. I have pointed this out time and time again.

We know the Council has been through eight plus years of Austerity which has caused turmoil, lost knowledge and resulted in some out of date policies (e.g. Records Management Policy). We also know the checks and balances needed for a fully democratic Mayoral Authority weren't put in place during 2012 before the first Mayor took power. And since then the Mayors with the help of their Assistants have slowly changed the Constitution. It seems consultants are

used more too to prepare reports and the Council sets up businesses where virtually everything is exempt. These are further factors pushing away from openness, transparency and democracy.

We have to wrestle our local democracy back.

The Member Officer Protocol (MOP) adopted in late 2019 removed the need-to-know principle (see MOP p19) and adopted the Nolan principles of openness and transparency. I remember celebrating that day it was voted through at Full Council. A year later, today, need-to-know is back (page 75). It feels like we have been stitched up. Six months work from May to Nov 2019 wasted. Trust further eroded.

The MOP says officers should be politically neutral (at sections 8, 10a and 10g). They should be committed to the Council as a whole, not any political group and not be influenced by views or preference. I would like this reconfirmed please by two senior officers and hence my questions that follow.

Officers, you say “trust us”. Well I say that the very first step is trusting the role of Monitoring Officer (MO); A role which is our last resort, the last route of appeal. If the MO can say he is truly independent of political pressures then that’s a positive first step.

*** There were four questions here that have been deleted ****

Agenda item 12 – Internal Audit Quality Assurance Improvement Programme – Councillor Clive Stevens

The Chief Internal Auditor reports in to the Audit Committee (Internal Audit Charter 3.1 – page 98 of the consolidated report), he/she is required to have and to be seen to have independence and objectivity (4.4). At 4.5, the Audit Committee must periodically review any safeguards to limit impairments (to his independence and objectivity).

These questions are another step in the process of rebuilding trust needed to accept assurances from Statutory Officers. Hopefully the Monitoring Officer has already assured us that the Chief Internal Auditor (CIA) can have access to any information he wishes.

*** There were three questions here that have been deleted ****

Agenda Item 15 – Audit Committee Half Yearly Report to Full Council – Councillor Clive Stevens

Following the effectiveness survey completed by some Audit Committee Members it was decided to hold a workshop on 22/10/20. Five Audit Committee Members attended. It was to discuss why Councillors marked certain topics much lower than our Independent Members did. I chaired the workshop as Councillor Brain was unavailable. Discussion rapidly moved on to the cause of the low marks; lack of trust in information given to Councillors was a likely cause. The improvement ideas in the table in section 6 arose from that discussion. They were extracted from the notes taken of the workshop. These notes also include a thirteen point list of evidence occurring over the last five years.

I have now reflected on the discussion at that workshop. I sought to understand the causes of this lack of trust. And I was allowed to insert the final three lines in section 6 (on page 145). They request that this Committee discuss and consider appropriate checks and balances fitting for a democratic Mayoral Authority.

Section 6 also includes the following: The fact that the final arbiter of any appeal for information is the Monitoring Officer; The idea of bringing back pre-meetings and that it's only the Chair who can have one to one meetings with the CIA. I do hope the Chair ensures he allocates fifteen minutes at least to discuss section 6 of this paper. I think it is very important.