

Isle of Wight Council - Music Festivals 2002 and 2003

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Reference:	SGWI0010203W – Final
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Introduction

1. In accordance with Section 8 of the Audit Commission Act 1998 (the Act) I have considered whether, in the public interest, I should make a report about the Council's handling of the Music Festival 2002 in order that it may be considered by the Council and brought to the attention of the public. I have decided, for the reasons explained below, that my conclusions on this matter are best presented as an Interim Audit Letter under the Code of Audit Practice.

Background

2. In June 2002, the Council held a two-week music festival launched by a one day 'Rock Island' event. The Council organised the festival and contracted with Solo Agency Limited (Solo) to deliver the 'Rock Island' event.
3. Whilst the festival is generally considered by the Council to have been a cultural and tourism success, it was not a financial success. The Council did not expect the 'Rock Island' event to make a loss, although they were prepared to underwrite it. In fact, the 2002 event cost local taxpayers around £380,000. Some of this cost has been recovered from the 2003 event and further sums should be recovered in subsequent years.
4. The Council, responding to concerns about the loss and the circumstances leading to it, commissioned an independent report from Mr Neil Newton. His report criticises the Council for a number of failings, which I refer to below.

Purpose of this letter

5. I am issuing this Interim Audit Letter because I believe that there were significant shortcomings in the Council's approach, particularly in regard to the decision-making process. The letter is a means of communicating my views on a high profile issue of concern to the public, and raising awareness of the Council's response to the criticisms and to the recommendations in Mr Newton's report. It is also intended to provide local taxpayers with some assurance that the Council is learning from its past mistakes.
6. I have not sought to repeat the work done by Mr Newton for his report, or to record in detail the sequence of events and every criticism that could be made. I have considered four main issues:
 - the decision of the Council to support the music festival
 - the corporate governance and legal implications arising from this decision
 - the Council's response to Mr Newton's report
 - arrangements for the 2003 event.

Main conclusions

7. I regard the failures of process associated with the 2002 event as being of serious concern, even in the context of relatively recent changes in structures. It seems that some basic principles of governance were either forgotten or disregarded.
8. The lack of clarity and precision in reports, decisions and legal agreements has made it difficult to establish whether the Council acted at all times within its powers. It also leaves some doubt as to whether the Council obtained the most favourable terms that could have been achieved. It has certainly not helped the Council in building confidence and trust within the local community.

9. Mr Newton's report made a number of broad recommendations of areas for improvement, which were subsequently adopted by the Council, and I support these. Some local taxpayers formed the view that the Council's initial response to the report was rather slow, and interpreted this as complacency. I have given careful consideration to the Council's response and concluded that officers had agreed action on priority issues within a month of the report, and this has already led to some significant changes in the way the Council is managed. Whilst this action is putting in place the foundations for more effective governance, the Council needs to ensure that it will address all of the shortcomings I have set out below, and lead to the cultural change that is needed.

Summary of findings

The decision of the Council to support the music festival

10. The decision to support the festival was taken by the Council's Executive on 13 November 2001.
11. The written report and business case to the Executive advised that:
- based on a cash flow analysis, the maximum expenditure prior to receiving any income would be £109,000, which the Council would need to underwrite
 - the sum of £20,550 would be needed as overall financial support for the two-week festival.
12. It is recorded in the minutes that the Strategic Director of Finance and Information gave additional verbal advice that the Council would have unlimited liability for all the income and costs if the festival was not the success that everyone hoped it would be.
13. The report set out eight options for the Executive to consider. These reflected the financial advice set out in the report, but not that given verbally by the Strategic Director.
14. The Executive resolved:
- i) THAT the concept of the Isle of Wight Music Festival as set out in the report be supported.
 - ii) THAT the opportunity costs of arranging the festival to a maximum amount of £109,000 be underwritten from the reserves of Wight Leisure.
 - iii) THAT provision be made to provide overall financial support for the festival in the sum of £20,550 to form part of next year's budget considerations.
 - iv) THAT financial support for succeeding years' events be provided by allocating any profits made in the current year to them.
15. The resolution suggests to me that the Council agreed to support the festival, and placed a limit of £109,000 on that support, which would imply that expenditure over this level was unauthorised. It is only when referring to the minutes of the meeting and the Committee Administrator's notes that it becomes clear the Strategic Director, in his verbal presentation, warned of a potential loss of £0.6 million with insufficient reserves available to meet it. I have concluded that Members reached their decision to proceed in the knowledge that the cost was uncertain, but received advice orally and at a late stage. I regard this as a significant shortcoming, as this information should have been included in the formal report to Members. Not to have done so was in my view bad practice and not the way to conduct public business.
16. The Committee Administrator's notes also make it clear that there was a lively debate, and that the risks of the venture and the constraints upon council resources were at the heart of this. However, they raise two further areas of concern:

- it is clear that Solo were represented at the meeting and contributed to the debate; this seems inappropriate in the circumstances and could lead electors to believe that the agent had undue influence over the outcome
- one Member expressed the view that ‘...the PR (benefit of the event) makes the gamble worthwhile’, and was apparently not corrected by any officer present; it is of concern that Members should think in terms of gambling with council taxpayers’ money, and again does little to enhance the Council’s reputation.

The corporate governance and legal implications of support for the festival

17. The report commissioned by the Council from Mr Neil Newton contained criticism of the way in which the corporate governance arrangements of the Council failed in relation to the matter of supporting the festival. Drawing from this report and from my own analysis, I have identified the following shortcomings in corporate governance arrangements:

- due to a lack of discipline in reporting and decision-making processes:
 - deficient reporting to Members of the financial implications of the proposed festival including no proper risk analysis. Due diligence on the financial projections was severely limited
 - insufficient clarity and precision of the decisions made in relation to the Festival so that the meaning of those decisions was uncertain
- due to poor understanding of new constitutional processes and lack of clarity over functions and roles:
 - failure to properly constitute the Strategic Overview Management Group for the festival, to establish clear lines of reporting and to consider the issue of delegated powers for this group. This led to a risk that the Group would exercise decision making powers when none had been granted to it, and may have resulted in the failure to report to the Executive as issues arose
- due to inadequate performance management systems and culture:
 - Failure to communicate with senior officer and political management, in order to keep them informed and updated on the progress with and financial situation of the festival
 - Failure of officers to manage effectively and take responsibility for Wight Leisure, with the result that a ‘them and us’ situation had developed and was perpetuated, which was not conducive to effective working relationships in the context of the festival
- due to a poor understanding of appropriate procurement techniques:
 - the appointment of Solo as agents for the festival without competition and with belated regard to proper process and standing orders. This placed the Council on the back-foot and gave the impression that it was rationalising its behaviour after the event rather than acting in an open and transparent manner
 - the award to Solo of the contract for delivery of the launch event, which included a clause implying a commitment for the council to contract with Solo for any future festivals over the next five years, without specific authority to do so or to report back to the Executive. The clause agreed is now considered uncertain as to its meaning, but has subsequently led to a ten-year agreement with Solo. If such an agreement had been on offer to other potential providers at the start of the process, then more interest might have been generated and a more advantageous deal achieved.

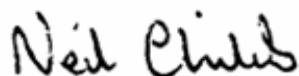
18. The deficient reporting and lack of precision and clarity in the wording of the resolution means that the Council's decision is capable of different interpretations. I cannot therefore be certain that action taken was consistent with the decision made, or that the Council was clear about the decision it was making and the financial implications that could flow from that decision.
19. As a result, I could not be certain that the Council acted within its legal powers. However, independent legal advice taken by the Council on this point concludes that it did not act outside its powers, while acknowledging that the wording of the resolution was poor and open to interpretation.
20. The Council was also at risk of acting outside of the formal delegations, and therefore unlawfully, in relation to its failure to properly constitute the Strategic Overview Management Group and the lack of authority for committing to contract with Solo for future events.
21. The Council has recognised that such weaknesses in its governance arrangements are unacceptable. I have therefore given careful consideration to whether the Council is taking sufficient action in a timely manner to address these weaknesses.

Action taken

22. In October 2002 the Council took the decision to commission an investigation by Neil Newton into the apparent flaws in the decision-making process. The investigation was commissioned on the basis that the resulting report would be made public.
23. Within a month of Mr Newton presenting his final report, the Council's Directors agreed significant changes to ensure they become aware, in advance, of issues being reported to the Executive and have the opportunity to input to the associated reports. These procedures are now operating.
24. In addition, training courses have been arranged for members and managers with the aim of ensuring everyone is clear about the Council's decision-making processes and understands their own roles and responsibilities. Although the latest information provided to me indicates that only 18 of the 48 councillors have so far signed-up for this training, I have been assured that additional courses will be run to ensure that all members have the opportunity to receive training over the next few months.
25. The fact that some significant changes have been made is one reason why I decided that a statutory Report in the Public Interest was not the appropriate vehicle for reporting my conclusions about the music festival. However, as important as these changes are, the problems will only be fully resolved when the organisational culture is changed. For this reason:
 - I urge all Members to participate in the current programme of training on decision-making. This is essential for ensuring an appropriate level of awareness across the Council and for demonstrating commitment at the highest level to the necessary cultural change
 - I support the revised arrangements by which Directors ensure that reports to the Executive are necessary and sufficiently comprehensive. These have already led to increased discipline in and quality of reporting, and they should help to encourage a more disciplined reporting culture across the organisation
 - I urge that the Executive respond to Mr Newton's concerns about relationships with Wight Leisure. Whilst I support the decision to halt the externalisation project, there is much more to be done by the Portfolio Holder and other Executive Members, working with Council officers, to recognise that Wight Leisure is, until externalised, an integral part of the Council.

Arrangements for the 2003 Music Festival

26. Although the focus of my review has been the 2002 Festival, for purposes of completeness I have considered what lessons have been learned in managing the 2003 event.
27. In agreeing to go ahead with a 2003 festival launch event, the Council determined that it would avoid the risks associated with underwriting the associated costs. Accordingly, the terms of the agreement limited the Council's commitment to making the site and associated facilities available, while providing the Council with a financial consideration.
28. I am satisfied that the Council has responded to the problems encountered in 2002, has sought to minimise its exposure to financial risk and has entered an agreement that should achieve the objectives of securing an annual event and providing a financial return to the Council.
29. However, I am concerned about the Council's failure to conclude terms with Solo until the last minute. This delay undoubtedly left the Council in a weak negotiating position. It is not possible to identify the extent to which, in consequence, the Council was constrained to accept less favourable terms, but the final agreement provides for the Council to receive a guaranteed £0.425 million over ten years, plus at least one per cent of ticket sales each year, compared with the £0.5 million over five years provided by the original proposal.
30. It has been suggested to me that the Council contravened its procedures in reducing the call-in period for the Executive's final decision on the 2003 event. Having considered this, I have concluded that the Council did comply with its procedures and that it gave due notice, but with the benefit of hindsight it is questionable whether it was necessary to vary the normal procedure.
31. It has also been suggested to me that Members faced a conflict of interest in being offered and accepting VIP tickets for the festival when they were agreeing to amend the terms of the agreement with SOLO. I acknowledge that this could give rise to a perceived conflict of interest and therefore I invite the Council to consider for the future whether acceptance of hospitality of this nature and scale is appropriate. However, I am satisfied that the conflict was not 'real'. The Executive decision to enter into the agreement with SOLO was made on 21 May whilst the offer of tickets was not made until June. Furthermore, I understand that the offer was not made directly by SOLO, but by Wight Leisure officers who decided to offer Members unused complimentary tickets from the Council's allocation.
32. This small but not insignificant issue, where the Council offered hospitality on a significant scale to its own members, is an illustration of Wight Leisure doing things 'differently' and thereby causing normal sound governance arrangements to fail.
33. As Members accepted complimentary tickets for the event, I have also looked to see whether proper processes were followed to declare this in the register of gifts and hospitality. I have concluded that some Members who were offered hospitality did not declare whether they accepted or declined the invitation as they are obliged to do. However, this was probably due to the inappropriate advice given to Members. Whilst I am satisfied that Members acted in accordance with this advice, in doing so some failed to comply with the Council's procedures. This is another example of the risks of departing from the council's procedures.



R N Childs
District Auditor
November 2003

Status of our reports to the Council

Our reports are prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission. Reports are prepared by appointed auditors and addressed to Members or officers. They are prepared for the sole use of the audited body, and no responsibility is taken by auditors to any Member or officer in their individual capacity, or to any third party.