

MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 15 NOVEMBER 2021

Present: Councillor Perry (Chairman) and Councillors Bartlett, Brindle, Coulling (Parish Representative), Cox, Cuming, Daley, Fissenden and Newton

Also Present: Mr Paul Dossett and Mr Trevor Greenlee – Grant Thornton (External Auditor)

40. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors J Sams, Titchener (Parish Representative) and Trzebinski.

41. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Newton was substituting for Councillor J Sams.

42. URGENT ITEMS

The Chairman said that he had agreed to take the External Auditor's Audit Findings report (Appendix 2 to the report of the Senior Finance Manager (Client) relating to the Statement of Accounts 2020/21) as an urgent item as it was not available when the agenda was published.

43. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

44. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

45. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

46. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

47. MINUTES OF THE MEETING HELD ON 28 SEPTEMBER 2021

RESOLVED: That the Minutes of the meeting held on 28 September 2021 be approved as a correct record and signed.

48. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

49. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

50. COMMITTEE WORK PROGRAMME 2021/22

The Committee considered its work programme for the remainder of the Municipal Year 2021/22.

In response to a question, the Chairman said that he intended to raise the issue of the revised Kent Code of Conduct for Members during consideration of the Annual Complaints Report 2020/21.

RESOLVED: That the Committee work programme for the remainder of the Municipal Year 2021/22 be noted.

51. ANNUAL COMPLAINTS REPORT 2020/21

The Corporate Insight, Communities and Governance Manager introduced this report providing an overview of (a) how the Council had performed in responding to complaints in 2020/21 and (b) the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter 2020/21. It was noted that:

- The Council received 567 stage 1 complaints in 2020/21 compared to 720 in the previous year, a decrease of 21.25%. It was likely that this decrease was due to the COVID-19 pandemic. The number of stage 1 complaints received accounted for 0.18% of the total volume of calls and online forms received by the Council in 2020/21. This had decreased compared to 2019/20 when the number of stage 1 complaints received accounted for 0.28% of all calls and online forms received by the Council.
- Of the 567 stage 1 complaints received in 2020/21, 59 were escalated to the second stage of the Council's complaints process. This was an escalation rate of 10.4% compared to 15.3% in 2019/20 and the performance target of 15%.
- Whilst the overall number of complaints had reduced, there had been a slight increase in response times at both stage 1 and stage 2 compared to 2019/20 which could be accounted for by the absence and redeployment of staff due to the pandemic.

- The Council received 58 written compliments in 2020/21 compared to 47 in 2019/20, an increase of 23.4%.
- The LGSCO Annual Review Letter 2020/21 was positive for the Council. There was no comment or critique of its complaints handling and the LGSCO did not issue any public reports regarding the Council in 2020/21. The LGSCO had made decisions on 32 complaints in 2020/21. This represented a decrease of 11 decisions compared to the previous year. The number of upheld complaints had stayed the same as in 2019/20 (7), but the upheld rate had decreased. All recommendations made by the LGSCO had been complied with by the Council.

Members thanked the Officers for the Council's performance in responding to complaints and for the actions which had been implemented to improve the Council's complaints handling process.

The Chairman then took the opportunity to update the Committee on the position with regard to the drafting of a revised Kent Code of Conduct for Members. He explained that a document was being worked on by the Kent Secretaries (Monitoring Officers), but they were unable to provide a draft at this stage. He would continue to liaise with the Monitoring Officer on this important issue.

In response to a question, the Chairman undertook to ensure that when the new Constitution is being drafted for the new Executive Model of Governance either the Audit, Governance and Standards Committee or Maidstone KALC are asked to comment on the section relating to the arrangements for dealing with alleged breaches of the Members' Code of Conduct.

RESOLVED: That the Council's performance on complaint management in 2020/21 and the information contained in the Local Government and Social Care Ombudsman's Annual Review Letter 2020/21 be noted.

52. DATA PROTECTION UPDATE

The Corporate Insight, Communities and Governance Manager introduced her report providing an update on the progress of compliance with the Data Protection Act 2018 (the General Data Protection Regulation (GDPR)). The report included:

- Information on a consultation document published by the Department for Digital, Culture, Media and Sport on proposed changes to data protection legislation together with a summary of the key areas that might impact the Council;
- Information on the Code of Practice for Data Sharing published by the Information Commissioner's Office;
- Examples of the Information Commissioner's Office applying its powers; and

- Details of progress against the Data Protection Action Plan together with an explanation for a change in the structure of the Corporate Insight, Communities and Governance Team which was responsible for data protection.

The Corporate Insight, Communities and Governance Manager asked the Committee to consider the inclusion in future reports of performance data relating to wider information management such as the processing of requests under Freedom of Information Act/Environmental Impact Regulations; the processing of Subject Access Requests; Management of Data Breaches; Information Sharing Arrangements; and Data Protection Impact Assessments. She explained that this would give a more complete view of the work being undertaken in this area as well as the success of actions implemented to ensure compliance.

Members welcomed the inclusion of this performance data in future reports to the Committee.

In response to questions, the Corporate Insight, Communities and Governance Manager explained that the proposed introduction of a charge for Subject Access Requests might exclude those who are financially insecure; the performance data which it was proposed to include in future reports was information that was provided already to the Information Management Board; and data protection was just one part of the work of the Corporate Insight, Communities and Governance Team, which also included complaints handling, processing of requests under Freedom of Information Act/Environmental Impact Regulations and information management more generally.

RESOLVED:

1. That the national context and the progress of compliance with the Data Protection Act 2018 (the General Data Protection Regulation (GDPR)) be noted.
2. That the actions taken to date and the next steps be noted.
3. That the Committee should continue to receive an annual update on the progress of embedding GDPR into the Council's processes until all actions become business as usual and that performance data relating to wider information management such as the processing of requests under Freedom of Information Act/Environmental Impact Regulations; the processing of Subject Access Requests; Management of Data Breaches; Information Sharing Arrangements; and Data Protection Impact Assessments should also be included in these reports going forward.

53. ANNUAL GOVERNANCE STATEMENT - MID-YEAR UPDATE

The Head of Policy, Communications and Governance presented her report providing an update on the progress made against the Action Plan for 2021/22 contained in the Annual Governance Statement for 2020/21

which was approved by the Committee in July 2021. It was noted that progress had been made across all areas identified for action. For example:

- Progress had been made and actions were planned to ensure compliance with the new Financial Management Code.
- Actions had been taken in respect of key corporate risks which had been identified. In response to the risks associated with the contraction in the retail and leisure sectors, work on the Town Centre Management Strategy had been approved as part of the Council's Action Plan for Recovery and Renewal which had been reported to the Policy and Resources Committee and which included funding for the Strategy itself and for activities in and promotion of the Town Centre.
- Work was continuing on the new Executive Model of Governance which would be introduced at the Annual Meeting of the Council in May 2022. The next phase was drafting the new Constitution which was a substantial and critical piece of work. Training was planned for Councillors and Officers on the new arrangements prior to their commencement.

In response to a question, the Head of Policy, Communications and Governance advised the Committee that since the changes to the Constitution would be substantial, it would not be practical to show them as track changes to the existing document. However, every effort would be made to highlight the key differences and the areas that remained the same, and briefings could be arranged.

RESOLVED: That the update on progress against the Annual Governance Statement Action Plan 2021/22, as set out in Appendix A to the report of the Head of Policy, Communications and Governance, be noted.

54. INTERIM INTERNAL AUDIT AND ASSURANCE REPORT 2021/22

The Head of Audit Partnership introduced his report summarising the progress made so far towards completing the 2021/22 Internal Audit and Assurance Plan and providing an update on changes within the Mid-Kent Audit Partnership, including his imminent departure to take up a new role elsewhere.

In introducing the report, the Head of Audit Partnership advised the Committee that:

- The Internal Audit Team had continued to work with adequate independence and had not been subject to undue pressure from Members or Officers. No instances had been identified where it was considered that management had responded inappropriately to risk. He was satisfied that there were sufficient resources available to deliver the 2021/22 Internal Audit and Assurance Plan and to provide a robust Audit Opinion notwithstanding changes within the Team. Two

of the vacancies referred to in the report had now been filled and a market tender was being prepared to seek contractor support.

- In July, there were two audit engagements approaching completion that were not finished in time for Committee deadlines. As expected, there were no significant concerns that would alter the Opinion or demand separate reporting.
- Progress against the 2021/22 Audit Plan was generally as expected and would be kept under review having regard to contracting and recruitment plans.
- Work on overseeing, updating and reporting on risk had continued during the year in line with the Risk Management Framework. A risk management software package had been acquired which would help embed the Council's risk management approach and improve the quality of reporting.
- The report also included details of the current position on following up agreed actions. Three of these had been delayed but there were no extra risks.
- In terms of audit quality and improvement, he was satisfied that the Internal Audit Service remained in conformance with the Code of Ethics.

In response to a question, the Head of Audit Partnership advised the Committee that it was difficult to recruit qualified audit staff, but, in his view, working for a shared service was a more attractive, diverse prospect than working for one local authority and the recruitment process was no more complex.

On behalf of the Committee, the Chairman thanked Mr Rich Clarke for his services as the Head of Audit Partnership and wished him all the very best for the future.

RESOLVED: That the work so far towards completing the 2021/22 Internal Audit and Assurance Plan and the updates regarding the Mid-Kent Audit Partnership be noted.

55. TREASURY MANAGEMENT MID-YEAR REVIEW 2021/22

The Finance Manager presented his report setting out the activities of the Treasury Management function for the first six months of the 2021/22 financial year in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities. The Finance Manager advised the Committee that:

- The Treasury Management Strategy for 2021/22 was approved by the Council on 24 February 2021 and the key aim was to keep investments short and to use cash balances to fund the Capital Programme due to low investment returns.

- Investment balances had averaged around £33m over the year so far. This was higher than in previous years mainly due to business and COVID grant funding from the Government and slippage within the Capital Programme. However, grants would soon be repaid, and the Capital Programme would accelerate over the next few months, which in turn would reduce this balance.
- All investment funds had been held in call accounts, notice accounts, money market funds and short-term fixed deposits.
- As at 30 September 2021, investments totalled £45.19m and the Council had short-term external borrowing of £9m from other local authorities.
- The Council was looking to transfer some of its short-term borrowing for the certainty of longer-term rates and had taken out a loan with the Public Works Loan Board after its rates dropped significantly following the recent budget announcement.
- During the first six months of the financial year 2021/22, the Council had operated within the prudential and treasury indicators set out in the Treasury Management Strategy Statement and in compliance with its Treasury Management Practices.

In response to questions, the Finance Manager advised the Committee that:

- Borrowing at present was for short-term liquidity to cover peaks and troughs within the cashflow. However, the Capital Programme was starting to escalate, and borrowing would increase.
- Short-term borrowing was anything less than one year. The decision had been made to lock into the loan from the Middlesbrough Teesside Pension Fund because the funding was required, the rates were good and to avoid the need to re-finance after a few months.
- All of the Council's institutions were highly rated and as security of capital was an investment priority, it was the practice to spread the risk across several institutions. However, as requested, a comparison could be provided at the next meeting of the costs and returns associated with the current investment profile and those resulting from overnight deposits with the Bank of England.

RESOLVED:

1. That the position regarding the Treasury Management Strategy as at 30 September 2021 be noted.
2. That no amendments to the current procedures are necessary as a result of the review of activities during the first six months of the 2021/22 financial year.

56. STATEMENT OF ACCOUNTS 2020/21

The Senior Finance Manager (Client) introduced his report setting out an updated Statement of Accounts for 2020/21 together with the Audit Findings report from Grant Thornton, the External Auditor.

The Senior Finance Manager (Client) advised the Committee that:

- The external audit was still in progress but approaching its conclusion. The most significant outstanding issue related to the accounting treatment for the housing developments at Brunswick Street and Union Street. The necessary adjustments were being finalised. Whilst the numbers involved were material, the outcome of these adjustments would not impact on the General Fund Balance. The impact would be substantially on the Balance Sheet and the expenditure would remain classified as capital spend. It was therefore proposed that recommendation 1 set out in the report be amended as follows:

That the Statement of Accounts 2020/21 attached at Appendix 1 to the report of the Senior Finance Manager (Client) be approved *subject to the satisfactory resolution of the capital accounting issues referred to in the Audit Findings report by the Director of Finance and Business Improvement in consultation with the Chairman of the Committee.*

- As requested at the last meeting, the report included additional information regarding the accounting treatment of the pensions liability and the arrangements for funding the deficit. Information had been received from the actuary explaining the significant increase in the liability in 2021. This was largely because of assumptions made around inflation and changes made by the actuary for accounting purposes. These were reflected as accounting adjustments in the Statement but did not impact directly on the Council's financial position. The report also included details of the funding arrangements which were based on triennial valuations. These were separate to the accounting arrangements and enabled the Council to ensure that adequate budgetary provision was in place to meet the pensions liability and repay any deficit on the Fund.

Mr Trevor Greenlee of Grant Thornton, the External Auditor, provided a summary of the Audit Findings report. He explained that work was still in progress but there was nothing that he needed to draw Members' attention to at this stage. Discussions would continue with the Finance Team regarding, inter alia, the accounting treatment for the housing developments at Brunswick Street and Union Street. There was a revised approach to the Value for Money work for 2020/21 following the introduction of a new Code of Audit Practice and the expectation was that the Value for Money conclusion would be issued no more than three months after the opinion on the financial statements. The delay in providing the Audit Findings report within expected timescales reflected the difficulties being experienced in the external audit sector linked to the

pandemic and other issues around the extent of regulation and expectations.

In response to questions:

- Mr Greenlee provided an update on the situation regarding ongoing slippage within the timescales for completion of external audits.
- The Director of Finance and Business Improvement explained that in terms of the pensions liability and the action taken to fund that liability, there were two separate calculations, albeit generated by the same actuary. He would be happy to arrange a Member briefing on the subject of the pensions liability and the funding arrangements.

RESOLVED:

1. That the Statement of Accounts 2020/21, attached at Appendix 1 to the report of the Senior Finance Manager (Client), be approved subject to the satisfactory resolution of the capital accounting issues referred to in the Audit Findings report by the Director of Finance and Business Improvement in consultation with the Chairman of the Committee.
2. That delegation to approve any further non-material changes be given to the Director of Finance and Business Improvement in consultation with the Chairman of the Committee.
3. That the External Auditor's Audit Findings report, attached at Appendix 2 to the report of the Senior Finance Manager (Client), be noted.
4. That the Letter of Representation, attached at Appendix 3 to the report of the Senior Finance Manager (Client), be approved.

Note: Mr Paul Dossett of Grant Thornton, the External Auditor, had hoped to address the Committee but lost connectivity.

57. **BUDGET STRATEGY - RISK ASSESSMENT UPDATE**

The Director of Finance and Business Improvement introduced his report providing an update on the budget risks facing the Council. It was noted that:

- Current monitoring indicated that in year financial performance in 2021/22 remained in line with budget. Looking ahead, there were several risks that would be reflected in the updated Medium-Term Financial Strategy, notably inflation remaining above the Government's long-term targets and uncertainty about future local government funding arrangements.
- A potential issue for Maidstone was that an 'across the board' increase in funding for Councils would use the current basis of assessing

funding requirements, which in 2019/20 indicated that the Council would have to pay negative Revenue Support Grant (RSG) to the Government rather than receive RSG from the Government. The first element of any increase in funding could therefore be used to reverse negative RSG, giving no benefit to the Council. The Council was lobbying the Government to address this anomaly.

- In addition, although the Spending Review covered three years, it was not clear whether this would translate into a three-year local government funding settlement. Local authorities benefited from the certainty offered by the four-year settlement between 2016/17 and 2019/20 even though this was a period of reductions in funding, and it was hoped that similar certainty could be provided for the next three years to help with forward planning.
- The risk of not being able to fund the Capital Programme had not changed appreciably. At present, funding for the Capital Programme was readily available at low cost. In the short term, funding was available through the market in borrowing and lending between local authorities. Longer-term funding was available from the Public Works Loan Board (PWLB) so long as the lending was not for purely commercial investment purposes. Bank rate was now expected to rise over the next year. However, at this stage, longer-term rates remained stable and borrowing costs remained within the Council's 2% budgeted level. The Council had taken its first tranche of PWLB borrowing and would continue to borrow in line with capital funding requirements.

In response to a question, the Director of Finance and Business Improvement advised the Committee that it was only new capital expenditure that the Council could legitimately fund from PWLB borrowing or prudential borrowing.

During the discussion, reference was made to (a) another risk in that the Government might not be prepared to mitigate the financial impact of a resurgence of COVID-19 and (b) the risks associated with IT security failure and the actions being taken to mitigate those risks.

RESOLVED: That subject to the points raised in the discussion, the updated risk assessment of the Budget Strategy, attached at Appendix A to the report of the Director of Finance and Business Improvement, be noted.

58. DURATION OF MEETING

6.30 p.m. to 8.00 p.m.