

MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE REMOTE MEETING HELD ON 29 JULY 2020

Present: Councillor Harvey (Chairman) and Councillors Adkinson, Brindle, Coulling (Parish Representative), Cox, Daley, Perry, Round and Titchener (Parish Representative)

Also Present: Ms Tina James and Mr Paul Dossett – Grant Thornton (External Auditor)

100. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Fissenden.

101. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

102. URGENT ITEMS

There were no urgent items.

103. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

Note: Councillor Daley joined the meeting during this item (6.35 p.m.).

104. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

105. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

106. EXEMPT ITEMS

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

107. MINUTES OF THE MEETING HELD ON 16 MARCH 2020

RESOLVED: That the Minutes of the meeting held on 16 March 2020 be approved as a correct record and signed.

108. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

109. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

110. COMMITTEE WORK PROGRAMME

The Committee considered its work programme for the period 1 September 2020 to 31 March 2021.

RESOLVED: That the Committee work programme be noted.

111. CONSULTATION ON DRAFT MODEL MEMBER CODE OF CONDUCT

The Head of Legal Partnership presented a report updating the Committee on the consultation exercise being undertaken by the Local Government Association (LGA) on its draft Model Member Code of Conduct.

It was noted that:

- Concerns had been expressed about the effectiveness of the existing Model Member Code of Conduct not just within local government but nationally, and this had led to a review by the Committee on Standards in Public Life, an independent, advisory, non-departmental public body, with a secretariat and a budget provided by the Cabinet Office. The Committee had published its report into Local Government Ethical Standards in January 2019 and it related to all tiers of local government. The report made a number of recommendations to central government, some of which required further legislation before they could be implemented. Best practice suggestions were also made as part of the report.
- The LGA had reviewed the existing Model Member Code of Conduct and updated it incorporating the recommendations made by the Committee on Standards in Public Life. The consultation draft Model Member Code of Conduct was the result of the LGA's initial work which included an event on Civility in Public Life with a range of stakeholders at the end of 2019 and three consultation workshops at the beginning of this year. The LGA's consultants had also examined examples of good practice, both in local government and other professions. It was the intention to create additional guidance, working examples and explanatory text. The consultation on the draft Model Member Code of Conduct began on Monday 8 June 2020 and would end on Monday 17 August 2020. The LGA particularly wanted to know whether the

document reflected the new ways of working that had been introduced and provided enough of a steer on social media and online activity.

In response to questions, the Head of Legal Partnership explained that the Localism Act 2011 prescribed the types of sanctions that can be applied in the event of a Hearing Panel determining that a Councillor has failed to comply with the Member Code of Conduct. Further legislation was required to impose more rigorous sanctions.

During the discussion concerns were expressed that the draft Model Member Code of Conduct was a loosely and badly drafted document and that the consultation period was too short and should be extended to September/October due to the holidays. It was suggested that all Members of the Borough Council should be encouraged to respond to the consultation and it was noted that the Maidstone Area Committee of the Kent Association of Local Councils would be co-ordinating a response on behalf of Parish Councils. The Head of Legal Partnership undertook to ask the LGA for an extension of the consultation period and requested Members and the Maidstone Area Committee of the Kent Association of Local Councils to make representations as well.

RESOLVED: That the report be noted.

112. ANNUAL GOVERNANCE STATEMENT 2019-20 AND UPDATED LOCAL CODE OF CORPORATE GOVERNANCE

The Head of Policy, Communications and Governance introduced her report setting out the Annual Governance Statement for 2019/20 and a refreshed Local Code of Corporate Governance.

It was noted that:

- The Annual Governance Statement was a review of the Council's governance arrangements for the last financial year. The purpose of the review was to provide assurance that the Council's governance arrangements are adequate and operating effectively and to identify actions which are planned to ensure effective governance in the future.
- Overall, the Officers could confirm that the Council's governance arrangements were sound and working well. However, the review had identified additional actions to ensure that good standards of governance are maintained. The most significant governance issues related to managing the financial risk arising from the impact of COVID-19 and this had been included in the Action Plan for 2020/21. Other areas considered to be high risk in the Corporate Risk Register had also been included in the Action Plan; for example, the management of the Council's contracts, short-term Brexit impacts and the capacity to deliver the investment and regeneration programme.
- Progress had been made against last year's Action Plan with a number of actions now closed for the purposes of improvement in 2020/21.

- The opportunity had been taken to review and refresh the Local Code of Corporate Governance which was last fully updated in 2017. The changes included minor amendments to update the Code, a longer introduction and an explanation of how the Council's governance arrangements are reviewed and reported on.

In response to a question by a Member about progress against last year's Action Plan, and specifically the position with regard to ongoing investment in the Lockmeadow Leisure Complex which was acquired by the Council in November 2019, the Director of Finance and Business Improvement explained that the work being undertaken at Lockmeadow was phase one of a series of improvements that potentially the Council could make. The Capital Programme would be reviewed in the autumn and subsequent phases would be considered as part of that review.

Arising from comments during the discussion, the Head of Policy, Communications and Governance undertook to:

- (a) Make the following amendments to the Annual Governance Statement 2019/20:

Areas for Improvement 2020/21

Key Improvement Area	Lead Officer	To Be Delivered By
Ensure financial risks arising from the impact of COVID-19 are managed	Director of Finance and Business Improvement	1 March 2020 <i>September 2020</i>
Promoting decision making on Garden Communities ensuring information is publicly available and accessible and the role of the Council as developer versus the role as the Planning Authority is clear	Chief Executive	1 March 2021 <i>Late September/October 2020</i>

- (b) Make the following amendment to the Local Code of Corporate Governance:

Principle F – Managing Risks and Performance through Robust Internal Control and Strong Public Financial Management

Sub Principle	Actions	Evidence
Managing Risk	<p>We recognise that risk management is an integral part of all activities and must be considered in all aspects of decision making.</p> <p>We implement robust and integrated risk management arrangements and ensure that they are working effectively.</p> <p>We ensure that responsibilities for managing individual risks are clearly allocated.</p>	<p>Risk Management Framework & Guide in place and reviewed annually.</p> <p>Strategic Risk Register in place and reviewed by Leadership team.</p> <p>Directorate and Service level risk registers in place and reviewed monthly.</p> <p>Corporate report template contains 'risk implications'.</p> <p>Audit Governance and Standards Committee reviews risks regularly <i>twice a year</i>.</p>

- (c) Provide an explanation for abbreviations and acronyms the first time that they are used.

It was suggested that when considering capacity to deliver the investment and regeneration programme, the proposed daylighting of the River Len, an element of the redevelopment of the Len House site, should also be taken into account.

RESOLVED: That subject to the amendments made during the discussion, the Annual Governance Statement for 2019/20 and the refreshed Local Code of Corporate Governance, attached as Appendices A and B respectively to the report of the Head of Policy, Communications and Governance, be approved.

113. ANNUAL INTERNAL AUDIT REPORT & OPINION 2019/20

The Head of Audit Partnership introduced the Annual Internal Audit Report and Opinion 2019/20. In accordance with the Public Sector Internal Audit Standards (the Standards), the report included:

- The annual opinion of the Head of Audit Partnership on the overall adequacy and effectiveness of the Council's internal control, governance and risk management;
- A summary of the work completed by Mid-Kent Audit that supported the opinion; and
- A statement on conformance with the Standards.

It was noted that:

- The Head of Audit Partnership was satisfied from the audit work completed that the Council could place assurance on the system of

control in operation during 2019/20; that the corporate governance framework complied in all significant respects with the best practice guidance issued by CIPFA/SOLACE; and that the Council's risk management processes were effective.

- The Head of Audit Partnership had reached his conclusions independently and without any undue pressure from Officers or Members.
- The report also included details of the effect of the COVID-19 pandemic on the delivery of the 2019/20 Audit Plan and the action taken to conclude the Plan sufficiently to support the Head of Audit Partnership's opinion; the need to update the 2020/21 Audit Plan to reflect significant changes to the Council's risks and priorities due to COVID-19, the redeployment of staff towards the emergency response and the impact of holding a post vacant whilst the partner authorities consider their longer term resource positions; and the full report of CIPFA's External Quality Assessor confirming that the service continued to Fully Conform to Public Sector Internal Audit Standards.

In response to questions, the Head of Audit Partnership advised the Committee that:

- Planning Enforcement had received a "weak" assurance rating and the agreed actions would be followed up in September. In the meantime, he would circulate the final report together with a short note on the actions taken to address the issues.
- The Collaboration Agreement had expired but a draft replacement Collaboration Agreement was being considered and he had been reassured by Members and Officers across the four Authorities that their commitment to the continuation of the Internal Audit Partnership remained strong.
- Health and Safety had received a "weak" assurance rating and the agreed actions would be followed up in September, including improving performance in terms of completion of mandatory health and safety training modules.
- Whilst members of the Internal Audit team had been redeployed across the four Partner Authorities in response to the COVID-19 emergency, he could reassure Members that there was never a point during the process where the Internal Audit Service was completely vacated and that people were always available within the Service to offer advice, support and scrutiny.
- An updated 2020/21 Audit Plan would be presented to the Committee in September 2020 and Internal Audit staff had been briefed to look for amended procedures which might necessitate changes to the Plan.
- With regard to contract management, the Internal Audit team would look at how the processes functioned during the COVID-19 emergency

and remote working and potentially treat that as a separate piece of work.

- There were major cultural, wellbeing and staff management issues regarding remote working. The Internal Audit team was looking to pilot a piece of work at Ashford Borough Council about home working and the findings could be shared with Maidstone depending on its plans in that regard.
- An Internal Audit review had been undertaken in respect of Corporate Credit Cards and the controls were found to be sound. The Internal Audit team had tested ten corporate credit card holders and found one incident where the form had not been completed or retained but on further investigation the spending had been verified as accurate. One of the actions arising from the review was that credit limits are periodically reviewed to ensure that they are appropriate. There were three instances out of a sample of twenty five where the Internal Audit team could not immediately find the receipts for those payments but they were able to gain assurance by other means that the payments were legitimate so whilst there were some issues around retention of documentation there were no issues around the legitimacy of the payments.
- The reviews relating to the discharge of planning conditions and waste crime had been undertaken late in the year and did not have an assurance rating but recommendations had been made which would be followed up and reported to the Committee in due course. As part of that process, Members' concerns that, for example, unpaid fixed penalty notices for some waste crimes are not routinely prosecuted would be addressed.

Members thanked the Head of Audit Partnership for a comprehensive summary of the activities of the Internal Audit team during 2019/20 and congratulated the team on its achievements in terms of professional development.

RESOLVED:

1. That the annual opinion of the Head of Audit Partnership on the overall adequacy and effectiveness of the Council's internal control, governance and risk management be noted.
2. That the work underlying the opinion plus the Head of Audit Partnership's assurance of its completion with sufficient independence and in conformance with relevant Standards be noted.
3. That the conclusion of CIPFA's External Quality Assessment of Mid-Kent Audit that the Partnership *Fully Conforms* with relevant Standards be noted.

114. TREASURY MANAGEMENT ANNUAL REVIEW 2019/20

The Finance Manager presented his report setting out details of the activities of the Treasury Management function for the 2019/20 financial year in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities, and in the context of the economic environment over the past 12 months.

It was noted that:

- The Treasury Management Strategy Statement for 2019/20 was approved by the Council on 27 February 2019. The key elements of the Strategy were:

Utilise cash balances rather than enter into loan debt to finance the Capital Programme in the short term due to low investment returns and high counterpart risk in the current economic climate; and
Further diversify the Council's portfolio, as far as is operationally feasible, ensuring that a combination of secured and unsecured investments are considered and investigate greater use of local authority investments for greater security; and
Continue to utilise the Council's reserves, balances and cash flow as a temporary measure due to investment returns being low and counterparty risks being relatively high until such time that borrowing is required to fund the Capital Programme.

- During 2019/20, the Council's investment balances had ranged between £7.75m and £37.3m. The average investment balance for the year was £25m. The Council held investments totalling £11.025m as at 31 March 2020.
- Investment income for the year totalled £208k which exceeded the budget for 2019/20 of £100k. This was due to the fact that for most of the year the Council held higher than expected cash balances and short term rates remained at higher than expected levels. The average rate for investments for the year was 0.82%, but this was unlikely to continue during 2020/21 with the reductions in interest rates in response to the financial impact of the coronavirus outbreak.
- All of the Council's investments during the year were short term so that they would be available when funding was required for the Capital Programme and there was greater use of money market funds due to the low risk and higher yield.
- In November 2019, the Council undertook £7m of short term borrowing to part fund the purchase of the Lockmeadow Leisure Complex (total cost £19m). The balance was funded from the Council's own resources. Short term borrowing was the cheapest option for the Council at that time, but the situation was being monitored. The Council had borrowed a further £4m by the end of the year resulting in total borrowing of £11m as at 31 March 2020. The borrowing was short term from local authorities and was needed to

fund the Capital Programme at a time when there was pressure on the Council's cash resources because it had not started to collect Council Tax and Business Rates for the new financial year.

- Current loans had gone down to £9m but this was anticipated to increase during the year. Consideration was being given to a mixture of long and short term funding to balance the risks of refinancing and interest rates risks.
- All Prudential and Treasury Indicators had been complied with throughout the year.

In response to a question about the risks associated with borrowing from other local authorities, the Finance Manager explained that at the moment local authorities seemed to be cash rich due to the receipt of grants. However, having regard to the situation generally and falling income levels, consideration was being given to other types of funding.

RESOLVED:

1. That the review of the financial year 2019/20 undertaken in accordance with CIPFA's Code of Practice on Treasury Management and the Prudential and Treasury Indicators be noted.
2. That no amendments to the current treasury management procedures are necessary as a result of the review of activities in 2019/20.

115. ACCOUNTS 2019/20

The Senior Finance Manager (Client) introduced his report setting out the findings of the External Auditor's work on the 2019/20 financial statements audit and value for money conclusion.

It was noted that:

- Due to the impact of the COVID-19 pandemic on local authorities, the Government amended the deadlines for the publication and approval of the accounts. The date for publication was amended from 31 May 2020 to 31 August 2020 and the date for formal approval was amended from 31 July 2020 to 30 November 2020. However, the decision was taken to try and complete the exercise as close to the original deadline as possible to enable a greater focus on the upcoming budget cycle which would be challenging given the financial pressures that the Council now needed to address.
- The headline messages from the Statement of Accounts could be summarised as follows:

There had been a significant increase in the value of Property, Plant and Equipment held on the Balance Sheet following the acquisition of

the Lockmeadow Entertainment Complex. This was also reflected in the increase of unusable reserves.

In relation to this acquisition, the Council entered into a borrowing position during 2019/20 which was reflected in short term borrowing of £11m shown on the Balance Sheet.

Short term creditors had increased by £10m which reflected an increase in S106 monies received from developers that would be passed onto other organisations, primarily Kent County Council and the NHS, and an increase in the amounts payable to central government under the Collection Fund arrangements for Business Rates.

- In terms of the audit itself, the work was substantially complete but there was still some uncertainty around the pension fund actuarial position which needed to be resolved and this could lead to some changes to the accounts. If these changes were substantial it might be necessary to report the accounts back to the Committee in September.

Ms Tina James of Grant Thornton, the External Auditor, advised the Committee that:

- When the Audit Findings Report was drafted there were some outstanding matters. The items that had still to be cleared included completion of PPE valuation testing; receipt of assurance from the Kent Pension Fund auditor and clearance of queries relating to movements in the liability in 2019/20; internal review procedures; and review of the final set of financial statements. Some of the larger items were taking more time to complete due to the challenges arising from remote access working arrangements.
- The External Auditor's Audit Planning Report included reference to the work required on the group accounts which the Council was intending to prepare for the first time. Due to the challenges presented by the new ways of working under the COVID-19 restrictions, the Council had decided not to prepare group accounts in 2019/20 on the grounds of materiality.

In response to questions, the Officers and Mr Paul Dossett of Grant Thornton, the External Auditor, explained that:

- The Council was required to revalue all of its properties at least once every five years, but the exercise was carried out every two years for the higher value properties. The insurance values were updated at the same time.
- The Emphasis of Matter paragraph was not a qualification but highlighted PPE valuation uncertainties for both the Council property and its share of assets included in the IAS 19 Pension Fund actuarial position.

- With regard to the use of going concern assumptions in the preparation and presentation of the financial statements, the Council had produced some very detailed cash flow forecasts and was able to demonstrate how it would be able to deal with any gaps in those forecasts in terms of its capacity to take out loans. The Council being a public body had quite wide powers to borrow money from the Public Works Loan Board and other Councils. This meant that it was in a relatively strong position to be a going concern from a cash point of view.
- With regard to the valuation of the Pension Fund net liability, the actuarial firms which provided services to the Local Government Pension Scheme were also subject to a detailed assessment by PwC which was contracted by the National Audit Office to do that work. PwC provided a detailed analysis of those particular actuaries and their competence to do the work and then provided External Auditors with a series of detailed questions. This was a very complex and technical area but in broad terms the External Auditor had confidence in the technical competence of the actuary who carried out the Authority's Pension Fund valuation whilst recognising the complications and implications arising from the COVID-19 emergency and recent judgements for example in relation to the McCloud case. Work in this area was still ongoing and an update would be provided at the next meeting.
- In addition to the provision made for costs relating to known planning appeals (£261k), an Earmarked Reserve had been created as a contingency for the potential costs of future planning appeals.
- A comment would be included in the notes to the Statement of Accounts to the effect that the increase in the Chief Executive's salary related to her Returning Officer's pay rather than a general pay increase.
- In June, the impact of COVID-19 on 2020/21 was assessed and the net impact was forecast to be £6,450k in increased expenditure and reductions in income after taking into account the support already provided by central government. This was a best guess and more optimistic/pessimistic scenarios were being modelled as part of the Council's long term and medium term financial planning and would appear in the more detailed strategic revenue projections. The figure referred to was that reported to central government which had not asked for other scenarios to be provided.

RESOLVED:

1. That the External Auditor's Audit Findings Report, attached as Appendix 1 to the report of the Senior Finance Manager (Client), be noted.
2. That the audited Statement of Accounts, attached as Appendix 2 to the report of the Senior Finance Manager (Client), be approved.

3. That the Letter of Representation, attached as Appendix 3 to the report of the Senior Finance Manager (Client), be approved.

116. 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 the COVID-19 pandemic had had a major impact on the Council's financial position and showed how vulnerable the Council was to external factors as follows:

Delivery of the Revenue Budget

As a result of the Covid-19 pandemic, the Council had incurred substantial additional expenditure, in particular as a result of accommodating homeless people and establishing a community hub; suffered a reduction in Council Tax and Business Tax receipts; and lost substantial income in areas such as parking. The outcome was that a deficit of £8.563m was projected before taking account of any mitigations.

The deficit was only partially mitigated by government grant so it was expected that there would be a drawing in the region of £4m on the Council's reserves to bridge the gap. On current projections, this would bring the Council's unallocated reserves down to just over £4m. This was still above the Council's specified minimum reserves level of £2m but left little flexibility in the event, for example, of a second lockdown.

In developing a new Medium Term Financial Strategy, consideration would be given to increasing the required minimum level of reserves to £4m.

Delivery of the Capital Programme

The cost of the Capital Programme was spread over the lifetime of investments so it had not been as directly affected by COVID-19 related pressures. However, there were revenue consequences to the Capital Programme. The cost of borrowing was factored into the revenue budget along with a Minimum Revenue Provision which spreads the cost of loan repayment over the lifetime of an asset.

The Capital Programme for 2020/21 had been reviewed in the light of the COVID-19 pandemic. The majority of the projects in the Programme were either underway, required for health and safety reasons or had to be carried out to meet contractual commitments. However, it was proposed that a number of projects be deferred to 2021/22 which would have the effect of reducing the in-year revenue costs of capital expenditure.

External Factors

The COVID-19 pandemic showed how vulnerable the Council was to external factors. The corporate risk register therefore now included new risks relating to (a) major emergencies such as a new pandemic and (b) a resurgence of the current COVID-19 pandemic.

The other major external risk was a potential adverse financial outcome from a disorderly Brexit. Although the UK had now left the EU, future trading arrangements with the EU were still to be agreed and there remained a risk of disruption if this had not happened by the Government's deadline of 31 December 2020. It therefore remained as a moderate risk in the budget risk register.

In response to a question, the Director of Finance and Business Improvement explained that the Council now faced a whole range of different risks and this would be reflected in its medium term financial planning with consideration given to favourable, neutral and adverse scenarios.

Members thanked the Officers for their work in addressing and planning for the risks facing the Council at the present time.

RESOLVED: That the updated risk assessment of the Budget Strategy, attached as Appendix A to the report of the Director of Finance and Business Improvement, be noted.

117. DURATION OF MEETING

6.30 p.m. to 8.40 p.m.