

## **MAIDSTONE BOROUGH COUNCIL**

### **AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 28 SEPTEMBER 2021**

**Present:** Councillor Perry (Chairman) and Councillors Bartlett, Brindle, Coulling (Parish Representative), Cox, Cuming, Daley, Fissenden, Garten, Munford and Titchener (Parish Representative)

22. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors J Sams and Trzebinski.

23. **NOTIFICATION OF SUBSTITUTE MEMBERS**

The following Substitute Members were noted:

Councillor Garten for Councillor Trzebinski  
Councillor Munford for Councillor J Sams

24. **URGENT ITEMS**

The Chairman said that he had agreed to take the External Auditor's Audit Progress Report as an urgent item as it was not available when the agenda was published. He also intended to take the Progress Report with the report of the Senior Finance Manager (Client) relating to the Annual Accounts 2020/21 (agenda item 13) as it impacted upon the recommendations contained within that report.

25. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

26. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

27. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

28. **EXEMPT ITEMS**

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

29. MINUTES OF THE MEETING HELD ON 28 JULY 2021

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

30. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

31. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

32. COMMITTEE WORK PROGRAMME 2021/22

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

The Chairman said that, if possible, he would like the update on the draft Model Member Code of Conduct to be submitted to the Committee at the earliest opportunity as there were issues that Members needed to consider.

33. COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT

The Senior Lawyer, Corporate Governance, introduced his report providing an update on complaints received under the Members' Code of Conduct during the period 1 March 2021 to 30 August 2021. The report also included an update on the draft Model Code of Conduct that was currently being considered by Kent County Council. It was noted that:

- Since the last report to the Committee on 15 March 2021, the Monitoring Officer had received six further complaints, one concerning a Borough Councillor and five concerning Parish Councillors.
- The complaint against the Borough Councillor and four of the complaints against Parish Councillors were rejected because they failed the preliminary tests. The remaining complaint against a Parish Councillor was currently under consideration by the Monitoring Officer.
- The Kent Secretaries (Monitoring Officers) had seen and commented on an initial draft version of a revised Kent Code of Conduct for Members. The final draft would be submitted to the KCC Standards Committee for approval in due course. If approved, it would be circulated to Kent Borough/District Councils for consideration of approval/adoption. Parish Councils would then each have the opportunity to consider whether they wished to adopt the Kent/Maidstone model or an amended version of their own or make no changes to their current Codes.

In response to questions, the Principal Solicitor, Contentious and Corporate Governance, advised the Committee that:

- The preliminary tests against which Code of Conduct complaints are assessed were set out in Part 4.2 of the Council's Constitution. Complaints were assessed by the Monitoring Officer in consultation with the Independent Person against the legal jurisdiction criteria test and, if applicable, the local assessment criteria test. She would arrange for an extract of the Constitution setting out the legal jurisdiction and local assessment criteria to be circulated to all Members and Substitute Members of the Committee and the Parish Council representatives for information. In addition to this, all future reports would include a summary of the reasons that a Code of Conduct complaint had failed the preliminary tests, in such cases.

Members indicated that they would like to see the draft revised Kent Code at the earliest opportunity to enable them to comment in a constructive way.

The Principal Solicitor, Contentious and Corporate Governance, advised the Committee that in commenting on the draft revised Kent Code, the Kent Secretaries had referred to concerns expressed by Members when they first saw the LGA Model Code of Conduct. However, some things that Members were keen to promote, such as more robust sanctions, would require changes to legislation. There was due to be a consultation on what the Government was proposing to do in respect of the report of the Committee for Standards in Public Life, and Members would be able to respond when that was available.

The Chairman said that he would press the County Council for the early release of the latest draft of the revised Kent Code to enable Members to have some input.

**RESOLVED:** That the report be noted subject to the points raised in the discussion.

Note: At the conclusion of this item, there was a short adjournment due to connectivity issues.

34. ANNUAL ACCOUNTS 2020/21/EXTERNAL AUDITOR'S AUDIT PROGRESS REPORT

The Committee considered agenda items 13 (Annual Accounts 2020/21) and 17 (External Auditor's Audit Progress Report) together. The recommendations in the report at agenda item 17 superseded those in the report at agenda item 13.

The Head of Finance advised the Committee that:

- At the time of drafting the report for agenda item 13, it was understood that the audit would have progressed sufficiently to enable the findings to be presented at this meeting and for the accounts to be approved subject to minor amendments. Unfortunately, after the agenda was published, the Officers had been advised by Grant Thornton, the External Auditor, that

although substantial progress had been made with the audit, it would no longer be possible to present an audit findings report to this meeting. This was due to capacity constraints within the local government audit sector, including slippage at other sites, which had resulted in delays to audit work at Maidstone. This year, work did not commence until late August 2021, which was considerably later than in previous years.

- It was therefore recommended that approval of the Statement of Accounts 2020/21 be deferred until the audit findings report was available. This meant that the Council would be unable to meet the statutory deadline of 30 September 2021 for finalising its 2020/21 financial statements. There were no significant practical implications such as fines or penalties, but any protracted delays could result in operational challenges for the Officers involved with the audit.
- Instead of the audit findings report, the External Auditor had provided an audit progress report and an update on emerging national issues and developments relevant to the local government sector. At this stage, it was understood that there were no significant audit findings to report.
- The updated version of the Statement of Accounts at agenda item 13 reflected a small number of minor updates to the draft which had been submitted to the last meeting of the Committee.

In response to questions/comments, the Head of Finance said that:

- In terms of the significant change in the Collection Fund Adjustment Account from a deficit of £26k as at 31 March 2020 to a deficit of £13.036m as at 31 March 2021, the Collection Fund was carrying a large deficit for 2021. The main reason for that was the way Collection Fund income was accounted for and the relief that was subsequently announced. The COVID-19 Business Rates Relief took a considerable amount of Business Rates away from the Collection Fund which only reflected the income collected from taxpayers. The Council did receive a significant amount of Section 31 grant that offset this and that would be paid back into the Collection Fund from the General Fund over the coming years.
- She had noted the typographical error in the first line of paragraph 3.2 of the report relating to the Statement of Accounts 2020/21.
- In terms of funding the deficit on the Pension Fund liability, there was a triennial valuation, which was a separate exercise to the accounting exercise, that worked out a primary rate of contribution which would be a percentage of the payroll and then a secondary rate which was for funding deficits. The assumption was that the deficit would be repaid over a period of 16 years. At present, this stood at just over £1m a year in addition to the Council's primary contributions as an employer. That figure would be updated every

three years, every time there was a revaluation. Assumptions had been made in the Medium Term Financial Strategy about budgeting for this and an increased level of contribution following the next triennial valuation in 2023/24 recognising that there would be a risk of that.

- In terms of the position going forward, allowance had been made for an increase in the Council's contributions of £150k per year over the three years from 2023/24. In percentage terms this was in line with the increase seen at the last triennial valuation.
- As requested, details of the assumptions used by the actuary in arriving at the Pensions Reserve figures would be included in the report to the Committee in November 2021.
- The Officers would review how information in the Narrative Report (Key Facts about Maidstone) was presented.
- Unusable Reserves generally arose from accounting adjustments or statutory arrangements and could not be spent. They were subject to audit and did not impact on the spending power of the Council.
- Based on a review against the Accounting Standards, it was considered that the Council had no leases (property or equipment) that needed to be classified as finance leases.

**RESOLVED:**

1. That the approval of the Statement of Accounts 2020/21 be deferred to the next meeting of the Committee scheduled to be held on 15 November 2021.
2. That the External Auditor's progress report, attached as Appendix 1 to the report of the Head of Finance, be noted.

Note: Mr Trevor Greenlee of Grant Thornton, the External Auditor, was unable to join the meeting remotely due to connectivity issues. Mr Greenlee sent his apologies and undertook to speak to the Chairman later in the week.

35. EXTERNAL AUDITOR'S AUDIT PROGRESS REPORT

See Minute 34 above.

36. INTERNAL AUDIT CHARTER

The Head of Audit Partnership introduced his report which provided the biennial opportunity for the Committee to review and approve the Internal Audit Charter. The Head of Audit Partnership explained that the Charter was a key document setting out the roles and responsibilities of the Council's Internal Audit Service and its relationships with Officers and Members. As there had been no significant updates in the Public Sector

Internal Audit Standards or requirements since the Charter was last reviewed in 2019, and mindful of the fully conforming External Quality Assessment from CIPFA in 2020, no material changes were proposed to the document.

The Chairman took the opportunity to endorse the work of the Internal Audit Service.

**RESOLVED:** That Internal Audit Charter, attached as Appendix 1 to the report of the Head of Audit Partnership, be approved.

37. AUDIT, GOVERNANCE & STANDARDS COMMITTEE ANNUAL REPORT 2020/21

The Audit Manager presented the Committee's Annual Report 2020/21. It was noted that:

- The production and presentation of an Annual Report was required by the Committee's Terms of Reference. The purpose of the Report was to outline where the Committee had gained assurance during the year, particularly over areas of governance, risk management, Standards and internal control.
- The report concluded that based on the activity during the year, the Committee could demonstrate that it had appropriately and effectively fulfilled its duties during 2020/21. The Committee had continued to work in partnership with the Council's Internal Auditors, Finance Team, Senior Officers and appointed External Auditors to provide independent assurance on a wide range of risk, governance, internal control and conduct related issues.

The Committee agreed that subject to the correction of a minor typographical error on page 4 of the document (the reference to January 2020 in the heading of the table being amended to January 2021), the Audit, Governance and Standards Committee Annual Report for 2020/21 be approved for submission to the Council.

**RESOLVED:** That subject to the correction of a minor typographical error on page 4 of the document (the reference to January 2020 in the heading of the table being amended to January 2021), the Audit, Governance and Standards Committee Annual Report for 2020/21 be approved for submission to the Council.

38. 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:

- A potential area of concern was the shortfall, for the first quarter of 2021/22, in Business Rates collection against target (28% versus 31%). Business Rates Relief for businesses in the retail, hospitality

and leisure sectors had been reduced with effect from 1 July 2021, so there was a risk that this collection performance would deteriorate further. As well as affecting core Business Rates income, this would have a knock-on impact on the Council's income from the Kent Business Rates pool.

- The Council's Treasury Advisers expected Bank Rate to remain at 0.1% throughout the rest of 2021/22 and 2022/23. However, the rise in CPI inflation to 3.2% in August 2021 increased the likelihood of an earlier tightening of monetary policy. Whilst this would not in itself threaten the funding of the capital programme, it would make funding more expensive and would make investment projects with marginal financial benefit less attractive.
- A further risk to the capital budget was the impact of inflation and supply blockages. Whilst there was scope to absorb overspends at an individual project level by transferring resources within the overall capital budget envelope, these pressures meant that the capital programme would deliver less than originally anticipated.
- Inflation also posed a risk to the Council's budget over the medium term. The neutral Medium Term Financial Strategy revenue projections assumed that the Bank of England would be able to deliver its 2% inflation target over the medium term. If this target was exceeded, it would have an impact, particularly if the Council Tax referendum limit remained at 2%, thus constraining the Council's ability to pass on increases in input costs.

Concerns were expressed about the risk of a rise in interest rates and the impact on the Council's ability to fund its capital programme. It was suggested that the Council should not be relying for too long on short-term borrowing.

The Director of Finance and Business Improvement assured the Committee that the Officers were monitoring the situation closely. He explained that as the capital programme progressed, the Council would be borrowing from the Public Works Loan Board. However, any borrowing would have to adhere to statutory guidance under which it was necessary to link the borrowing to capital expenditure. The Council could not simply borrow to meet all of its future capital borrowing requirement. As the Council embarked on more capital investment, the opportunity would be taken to fund that on a long-term basis as appropriate.

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

39. DURATION OF MEETING

6.30 p.m. to 7.50 p.m.