

MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 28 JULY 2021

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

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

1. **APOLOGIES FOR ABSENCE**

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

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

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

3. **ELECTION OF CHAIRMAN**

RESOLVED: That Councillor Perry be elected as Chairman of the Committee for the remainder of the Municipal Year 2021/22.

4. **ELECTION OF VICE-CHAIRMAN**

RESOLVED: That Councillor Bartlett be elected as Vice-Chairman of the Committee for the remainder of the Municipal Year 2021/22.

5. **URGENT ITEMS**

There were no urgent items.

6. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

7. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

8. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

9. EXEMPT ITEMS

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

10. MINUTES OF THE MEETING HELD ON 15 MARCH 2021

RESOLVED: That the Minutes of the meeting held on 15 March 2021 be approved as a correct record and signed.

11. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

12. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

13. COMMITTEE WORK PROGRAMME 2021/22

The Committee considered its work programme for the period 1 September 2021 to 31 March 2022.

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

- The work programme included two six-monthly reports setting out details of the complaints received under the Members' Code of Conduct and how they had been dealt with together with an update in due course on the Model Member Code of Conduct which had been reviewed and updated by the Local Government Association (LGA) incorporating recommendations made by the Committee on Standards in Public Life.
- She understood that Kent County Council had considered what changes it might be appropriate to make to the Kent Code of Conduct for Members, which had been adopted by the majority of Borough/District Councils in Kent, in response to the publication of the LGA Model Code, and a draft version of a revised Kent Code had been produced. This would be looked at by the Borough/District Councils which would decide for themselves what they wanted to adopt. Parish Councils would then have the discretion to decide whether they wished to adopt the same Code as the Borough/District Councils or adopt their own version. This process would link into the full Constitutional review required as a result of a change to an Executive Model of Governance.

Members indicated that they would welcome the opportunity to see the draft revised Kent Code as soon as it became available as they wished to ensure that concerns expressed about the original LGA document had been addressed.

The Principal Solicitor, Contentious and Corporate Governance, reminded the Committee that some things that Members were keen to encourage would require changes to legislation. She said that she understood that a Government Consultation on proposals made by the Committee on Standards in Public Life was due to take place soon.

RESOLVED: That subject to Members' expressed wish to see the draft revised Kent Code of Conduct for Members as soon as it becomes available, the Committee work programme be noted.

14. REVISION OF THE COVERT SURVEILLANCE AND ACCESS TO COMMUNICATIONS DATA POLICY AND GUIDANCE NOTE

The Principal Solicitor, Contentious and Corporate Governance, introduced this report seeking approval for the revised Covert Surveillance and Access to Communications Data Policy and Guidance Notes (the Policy) following an inspection by the Investigatory Powers Commissioner's Office (IPCO) in January 2021. It was noted that:

- The Home Office Covert Surveillance and Property Interference Revised Code of Practice 2010 requires the Council to review its use of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Policy at least once every two years.
- The inspection in January 2021 was followed up by a favourable report. Whilst no specific revisions were requested, two minor changes had been made to ensure that the Policy was up to date:
 - a) page 5 had been amended to reflect where training records were stored and the frequency at which training should be delivered; and
 - b) page 5 had been amended as the Office of Surveillance Commissioners (OSC) had been replaced by the IPCO.
- The Inspector's general observation was that it would be of significant benefit to have in place regular, minuted, meetings between the Senior Responsible Officer (SRO) and the RIPA Co-ordinating Officer. The first of these meetings took place in February 2021 and would continue on a quarterly basis, with minutes being produced and filed in the Central Register.
- The IPCO requires training for all Authorising/Key Officers every three years. The last training was delivered in December 2018 and further training was scheduled to be delivered in December this year.

In response to concerns expressed by a Member about typographical and grammatical errors within the Policy, the Principal Solicitor, Contentious and Corporate Governance, said that if these could be detailed in an email, she would arrange for them to be corrected.

RESOLVED: That subject to typographical and grammatical errors being corrected, the revised Covert Surveillance and Access to Communications Data Policy and Guidance Notes, attached as

Appendix B to the report of the Senior Lawyer, Corporate Governance, be approved.

15. ANNUAL GOVERNANCE STATEMENT 2020-21 AND REFRESHED LOCAL CODE OF CORPORATE GOVERNANCE 2021

The Head of Policy, Communications and Governance introduced her report setting out the Annual Governance Statement for 2020/21 and a refreshed Local Code of Corporate Governance for approval. 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 were adequate and operating effectively and to identify actions which were planned to ensure effective governance in the future.
- Overall, the Officers could confirm that the Council had the appropriate governance systems and processes in place. Progress had been made against last year's Action Plan; however, the review had identified additional actions to ensure that good standards of governance were maintained.
- The most significant governance issues still related to COVID-19, particularly in relation to emergency planning, financial management and ways of working.
- Compliance with the new Financial Management Code had been assessed and as a result several measures had been identified to improve transparency and reporting for financial information and these had been included in the Action Plan for 2021/22.
- There were also actions relating to significant corporate risks, progress against the Data Protection Action Plan, raising awareness of the Local Code of Corporate Governance and the Nolan Principles, and the change to an Executive Model of Governance.
- The Local Code of Corporate Governance had been refreshed this year to reflect changes regarding evidence arising from new ways of working (for example, the annual appraisal process had been replaced by monthly check-ins with staff looking at and documenting performance against targets) and there were some other minor updates.

In response to a question, the Head of Policy, Communications and Governance undertook to refer in the Annual Governance Statement to how the Borough Council tries to promote good practice/high standards of conduct within Parishes through the role of the Monitoring Officer in dealing with Code of Conduct complaints and encouraging all Parish Councils to adopt the new Code of Conduct once updated.

RESOLVED: That subject to the amendments suggested during the discussion, the Annual Governance Statement for 2020/21 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.

16. ANNUAL INTERNAL AUDIT REPORT & OPINION 2020/21

The Audit Manager introduced the Annual Internal Audit Report and Opinion 2020/21. 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 controls, corporate governance framework and risk management arrangements;
- 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 2020/21; the corporate governance framework complied in all significant respects with the best practice guidance issued by CIPFA/SOLACE; and 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 the results of individual audit engagements completed during the year; a summary of progress made on implementation of agreed actions; details of progress against the remaining actions arising from the External Quality Assessment and against the Quality Assurance Plan; an update on the progress being made towards a new collaboration agreement; and details of the achievements of the Internal Audit team in terms of their ongoing professional development.

In response to questions:

The Audit Manager explained that:

- The Internal Audit team was not planning to undertake a review of Contract Management this year. The most recent findings were implemented about 18 months ago. However, risk priorities did change and were reviewed during the year. If, when compiling the Audit Plan, it was considered that the level of risk associated with Contract Management had increased, it would be looked at. Contract

Management was now incorporated within the shared service Procurement function but arrangements with that shared service were still being agreed. When the arrangements were in place the Internal Audit Team would consider its inclusion in the Audit Plan.

- The findings of the Internal Audit reviews of S106 and Developer Contributions and Development Management (Officer Decisions) had been accepted and agreed actions had been put in place to address them. Dates for implementation of the agreed actions were in place and would be followed up as they became due.
- The Internal Audit review of Capital Project Management, which was going to have a very narrow scope and focus on the Innovation Centre, had been cancelled to make way for a MHCLG audit of the project. There were several capital expenditure projects going on and Capital Project Management was forming part of the audit planning process but, given the resources available and the risk priorities, an assessment would be made of its inclusion in the Audit Plan based on the level of expenditure and the controls in place.

The Director of Finance and Business Improvement explained that:

- The Council was part of the Kent Pension Fund. The prime responsibility for auditing the Pension Scheme rested with Kent County Council and they had their own auditing arrangements. In so far as the numbers in the Council's accounts were concerned, these were audited by Grant Thornton and they relied on the work of the actuary and their own team members who were looking at the Pension Fund. He did not consider a further review by the Council's Internal Audit team could add a lot of value given the work already going on.

Members congratulated the Internal Audit team on its achievements in terms of professional development and its recent shortlisting for the Institute of Internal Audit Awards.

RESOLVED:

1. That the annual opinion of the Head of Audit Partnership on the overall adequacy and effectiveness of the Council's internal controls, corporate governance framework and risk management arrangements be noted.
2. That the work underlying the opinion and the Head of Audit Partnership's assurance of its completion with sufficient independence and in conformance with proper Standards be noted.

17. **FINANCIAL MANAGEMENT CODE**

The Head of Finance introduced her report concerning the Financial Management Code developed by CIPFA in response to the challenges of reduced funding and increased demand for services alongside the high-profile financial management issues which had faced a small number of

local authorities in recent years, and which had served to highlight the importance of robust financial management. The report also included an assessment of the Council's compliance with the Code and proposed actions.

The Head of Finance explained that:

- The Financial Management Code was designed to support good practice and financial management and to assist local authorities in demonstrating their financial sustainability.
- The Code had been introduced relatively recently and it set out the standards of financial management for local authorities which Councils were expected to comply with by the end of the current financial year 2021/22.
- The Code was a principles-based document setting out the minimum standards that many well-managed authorities would already be complying with. However, this was the first time that the Council had been required to formally demonstrate financial management standards in this way.
- The background and wider context to the development of the Code were the significant financial challenges which local government had faced in recent years coupled with the high-profile issues faced by a very small minority of Councils resulting in Section 114 notices being issued.
- A self-assessment of compliance against the principles of the Code had been undertaken and it had been concluded that in the majority of areas the Council was complying.
- A small number of actions had been identified to further improve compliance and these were summarised in the report. It was anticipated that all of these actions would be delivered in 2021/22.

RESOLVED:

1. That the assessment of compliance against the Financial Management Code and the proposed actions documented within Appendix 1 to the report of the Head of Finance be noted.
2. That the conclusion that the Council has complied with the requirements of the Financial Management Code be noted.

18. DRAFT ANNUAL ACCOUNTS 2020/21

The Senior Finance Manager (Client) introduced his report setting out the unaudited Statement of Accounts for 2020/21 and the External Auditor's risk assessment document. It was noted that:

- The Statement would be subject to external audit, scheduled to commence on 23 August 2021, prior to it being brought back for formal approval in September 2021.
- The headline messages from the Statement of Accounts could be summarised as follows:

There has been an increase in the value of Property, Plant and Equipment held on the Balance Sheet following the acquisition of a number of houses for housing temporarily homeless families, together with the costs of refurbishing the Lockmeadow Complex which was acquired in 2019. There had also been significant spend on a number of ongoing developments – the Innovation Centre and the housing developments at Brunswick Street and Union Street.

Short-Term creditors had increased which primarily reflected grants received by the Council from Central Government to pay over to businesses and individuals adversely affected by the impact of COVID-19.

Other Long-Term Liabilities had increased significantly, reflecting the annual remeasurement of the Pension Fund liability.

The items above were also reflected in movements within the Usable and Unusable reserves. Within the Usable Reserves a new earmarked reserve of £13.5m had been established to provide funding for future Collection Fund deficits which were now forecast because of the financial impact of COVID-19.

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

- In terms of assessing the competence of the actuary that carried out the Council's Pension Fund valuation, PWC's report as an auditor's expert advised Grant Thornton as the auditors on matters pertaining to the individual actuaries and was quite high level.
- Revaluations were done by the actuary firms not by the auditors who audited those numbers. Based on their experience of looking at 2020/21 accounts across the country and with the different actuarial firms, Grant Thornton had seen an increase in net pension liabilities everywhere for this year.

RESOLVED:

1. That the unaudited Statement of Accounts for 2020/21, attached as Appendix 1 to the report of the Senior Finance Manager (Client), be noted.
2. That the External Auditor's risk assessment document, attached as Appendix 2 to the report of the Senior Finance Manager (Client), be noted.

19. TREASURY MANAGEMENT ANNUAL REVIEW 2020/21

The Finance Manager introduced his report setting out details of the activities of the Treasury Management function for the 2020/21 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 2020/21 was approved by the Council on 26 February 2020. One of the key elements of the Strategy was to utilise cash balances rather than loan debt to finance the Capital Programme in the short term due to low investment returns and high counterparty risk in the current economic climate.
- During 2020/21, the Council's investment balances ranged between £5.24m and £48.6m. The average investment balance for the year was £22.385m. The Council held investments totalling £16.160m as at 31 March 2021, an increase on the previous year due to postponement of certain projects in the Capital Programme and the influx of Government grant funding due to COVID-19.
- In January 2021, the Council had unavoidably breached some of the counterparty limits agreed within the Treasury Management Strategy for 2020/21. The breach had arisen due to the receipt at short notice of a tranche of COVID-19 Business Grants funding. As other local authorities would have received similar allocations, the scope for short-term lending to them was extremely limited. The options were to either retain the cash in the current account with Lloyds or to allocate it to lower rated counterparties. These options were rejected to avoid the over concentration of risk in one area or compromising on the security of cash deposits and it was agreed by the Section 151 Officer that the funds be spread over a number of counterparties using the limits proposed in the Treasury Management Strategy Statement 2021/22. All counterparties are highly rated institutions and in money market funds where the majority of the cash can be accessed instantly.
- The breach was reported to the Policy and Resources Committee and to the Council which agreed to adopt the new counterparty limits in advance of the previously envisaged adoption date of 1 April 2021.
- In terms of borrowing activity, the total amount of loan debt as at 31 March 2021 was £11m. All of the Council's loan debt was short term. The option of locking into longer-term funding was discussed with Link Asset Services, the Council's Treasury Advisers. As interest rates on short-term funding are at an all-time low and funding is readily available, it was decided to continue with short-term debt throughout 2020/21. This decision would be kept under review during 2021/22 as borrowing was likely to increase along with spend.

- All Prudential and Treasury Indicators had been complied with throughout the year.

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

- From discussions with the Council's Treasury Advisers, it did not appear that they believed interest rates would increase significantly over the next three years and the Council had been advised to keep any borrowing short term at present to take advantage of the short-term rates which were lower than they had ever been. The Officers were in constant communication with the Treasury Advisers so if the market situation changed, the Council would be able to respond as quickly as possible.
- In terms of borrowing now to take advantage of low interest rates, very strict guidelines about borrowing ahead of need had been put in place by the Public Works Loan Board. There were also issues relating to the cost of carry and counterparty risks if those funds were not being spent. Capital spend was being monitored closely and it was likely that the Council would start borrowing more towards the end of this calendar year.

Members were mindful that capital projects had been identified and considered that the Council should be taking advantage of low interest rates to fund them. Concerns were expressed that a sudden increase in the cost of borrowing would have an impact on the viability of projects.

The Director of Finance and Business Improvement assured the Committee that:

- The Officers were monitoring the situation closely. They did not rely on just one adviser but looked at what was happening in the market as well. He would report back regularly to the Committee with the most up to date information.
- It was recognised that with treasury management, it was necessary to act quite quickly so operational treasury management decisions were delegated to Officers. He would take into account what Members had said and that would inform decision making.

RESOLVED:

1. That the review of the financial year 2020/21 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 2020/21 with the proviso that the Officers will take into account Members' concerns regarding borrowing rates in their treasury management activities.

20. 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 principal budget risk faced by the Council was a resurgence of COVID-19. The experience of the last financial year showed that this would have a major impact on the Council's finances although in the event a combination of Government grant and the Council's own mitigation measures more than offset the impact of the pandemic last year.
- In the medium term, general economic conditions and uncertainty about future funding arrangements for local government posed further potential risks.
- A major external risk previously identified was potential adverse financial outcomes from a disorderly Brexit. The risk had been downgraded in the last two versions of the Budget Risk Register and it was now proposed to remove it completely.
- There was another risk in the Corporate Risk Register which it was appropriate to include in the Budget Risk Register, namely IT Security Failure. Whilst measures were in place to guard against it, a successful cyber attack on the Council would almost certainly have significant financial implications.

During the discussion, it was pointed out that risk Q (Financial impact from IT security failure) had been included twice in the budget risk rankings.

In response to suggestions, the Director of Finance and Business Improvement undertook to redefine risk P to read "Financial impact from a resurgence of COVID-19 if the Government does not support the Council as it has done to date".

RESOLVED: That subject to the points set out above, 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.

21. DURATION OF MEETING

6.30 p.m. to 7.50 p.m.