

**AUDIT AND GOVERNANCE COMMITTEE**  
**Friday 21 July 2023**

**Present:**

Mr G N Cook in the Chair

Councillors Foster, McDonough and Stewart together with Mr M Knowles.

**In Attendance:**

Paul Wilson (Director of Finance), Paul Davies (Assistant Director of Assurance and Property Services), Nick Humphreys (Data Protection Officer), Mark Kirkham and Diane Harold (Mazars) and Gillian Kelly (Principal Governance Services Officer).

**Declarations of Interest**

There were no declarations of interest.

**Apologies for Absence**

Apologies for absence were received from Councillors Nicholson and Trueman.

**Minutes**

1. RESOLVED that the minutes of the meeting of the Committee held on 28 April 2023 be confirmed as a correct record.

The Director of Finance advised that following a strategy meeting with the Council's treasury advisors, a date would be arranged for treasury management training for Committee Members.

**Annual Report on the Work of the Committee**

The Director of Finance submitted a report providing a summary of the work undertaken by the Audit and Governance Committee during 2022/2023 and the outcome of the work. The report was designed to demonstrate how the Committee had fulfilled its role and would be presented to the Council once agreed by the Committee.

The report summarised the matters considered during the year including the Risk and Assurance Map, External Auditor reports, the Annual Governance Review,

Treasury Management, the Statement of Accounts, the Council's status as a going concern and the Data Protection Annual Report.

The report showed that the work of the Committee was wide ranging with Members monitoring performance more closely in those areas where it was deemed appropriate.

The Assistant Director of Assurance and Property Services advised that he would have a discussion with the newly appointed committee members on the Risk and Assurance Map in advance of the next update to the Committee.

Having noted the positive report, it was: -

2. RESOLVED that the Annual Report be approved and presented to the Council for their consideration.

### **Treasury Management Review of Performance 2022/2023**

The Director of Finance submitted a report which presented the Treasury Management borrowing and investment performance for 2022/2023 in accordance with the requirements of the Treasury Management Policy Statement and Treasury Management Strategy approved by Council on 2 March 2022.

The Council's Treasury Management function continued to perform well with an average interest rate on borrowing at 2.55%, which compared favourably with other local authorities as did the 2.16% rate of return achieved on investments. The rate of return had increased significantly from 0.22% in 2021/2022 and this also demonstrated the volatility in the market.

Members were reminded of the basis for the agreed Borrowing Strategy for 2022/2023 and that it had been reviewed in July and November 2022 and February 2023 and was updated where necessary to reflect changing circumstances. The strategy for 2022/2023 had been to adopt a pragmatic approach in identifying the low points in the interest rate cycle at which to borrow, and to respond to any changing circumstances to seek to secure benefit for the Council. A benchmark financing rate of 3.0% for long-term borrowing was set for 2022/2023 in light of the views prevalent at the time the Treasury Management policy was set in March 2022.

Volatility in financial markets had continued during 2022/2023 and PWLB rates had started the year at 2.42% and then rose steadily, reaching a peak of 5.51% in September 2022. From then rates gradually fell to 3.58% at the end of November 2022 before gradually rising end the financial year at 4.41%. The Council took advantage of low borrowing rates to take out £50million of new borrowing during the financial year at a rate of 2.79%.

The Authorised Borrowing Limit for External Debt had been set at £1,083.658m for 2022/2023 and the Operational Boundary for External Debt was set at £1,057.658m and the authority was well within the tolerances for these.

The Investment Strategy for 2022/2023 was also approved by the Council on 2 March 2022 and had a general policy objective of the prudent investment of its treasury balances. The investment policy was regularly monitored and reviewed to ensure it had the flexibility to take full advantage of any changes in market conditions to the benefit of the Council. The funds managed by the Council's in-house team amounted to £240.770million and all investments complied with the Annual Investment Strategy.

Councillor McDonough referred to the benchmark financing rate of 3.00% for long-term borrowing and asked if this meant that the Council would not borrow above this rate. The Director of Finance advised that this figure had been agreed as part of the budget for 2022/2023; the position was kept under review due to the volatility of interest rates.

Councillor Stewart highlighted the borrowing portfolio position at 31 March 2023 and queried the £39m which was at market rate. The Director of Finance explained that the Council had taken out LOBO loans many years ago and these were based on the market and could not be repaid until they matured.

Mr Knowles noted that it was very good to see the summary of performance and asked when Members would receive assurance on the Treasury Management controls. The Assistant Director of Assurance and Property Services undertook to check the audit plan and would provide a written response to Mr Knowles.

Following consideration of the report, the Committee: -

3. RESOLVED that the positive Treasury Management performance for 2022/2023 be noted.

### **Treasury Management First Quarterly Review 2022/2023**

The Director of Finance submitted a report presenting the Treasury Management performance to date for the first quarter of 2023/2024 and setting out the Lending List Criteria and Approved Lending List.

The Director of Finance reported that ongoing inflationary pressures had continued to result in the rise in the Base Rate; this was currently 5.0% and it was projected that it could rise to 6.0% by the end of the year. There had been a drop in inflation in recent days so it was uncertain whether the Monetary Policy Committee would increase rates by 0.25% or 0.50% in August. It was within this context that Treasury Management was operating.

The Council's Treasury Management function continued to look at ways to maximise financial savings and increase investment returns to the revenue budget, whilst maintaining a balanced risk position. No new borrowing had been taken out to date during 2023/2024 but the position continued to be monitored closely should it be needed to support the financing requirements of the Council's Capital Programme.

The Council's interest rate on borrowing was low, currently 2.70%, and the authority had benefitted from this lower cost of borrowing and also from ongoing savings from

past debt rescheduling exercises. The rate of return on investments was 4.56% compared with a benchmark of 4.37%.

The Treasury Management Prudential Indicators were regularly reviewed and the Council was well within the limits set for all of these. Further detail on the indicators was set out in Appendix A to the report. The investment policy was also regularly monitored and reviewed to ensure that it had the flexibility to take full advantage of any changes in market conditions which would benefit the Council.

The Council's authorised lending list continued to be updated regularly to take into account financial institution mergers and changes in institutions' credit ratings. The updated Approved Lending List was attached as Appendix C to the report for information. There had been no changes to the Lending List Criteria which were set out at Appendix B.

Mr Knowles made reference to the funds currently held and the Council's investment priorities and asked whether there was any argument for slightly longer-term investments.

The Director of Finance said that liquidity was important and the authority tended not to lend beyond a year as things could change swiftly.

Mr Cook asked if the external treasury management advisers were supportive of this approach and the Director of Finance stated that they were, and that the investment priorities were reviewed at regular strategy meetings.

Consideration having been given to the report, it was: -

4. RESOLVED that: -

- (i) the Treasury Management performance during Quarter 1 of 2023/2024 be noted; and
- (ii) the Lending List Criteria at Appendix B and the Approved Lending List at Appendix C be noted.

### **The Council's Going Concern Status Report**

The Director of Finance submitted a report inviting the Committee to consider the Council's status as a going concern.

Local Authorities were created and abolished only by statutory changes and as such there was an underlying assumption in the 2021/2022 CIPFA/ LASAAC Code of Practice on Local Authority Accounting (Accounting Code) that their accounts would be prepared on a going concern basis.

Authorities were required by Section 32 of the Local Government Finance Act 1992 to set a balanced budget. However, financial pressures within the local government sector meant that the Chief Finance Officer (section 151 officer) may need to consider whether action was required under section 114 of the 1988 Act, where the

section 151 officer must report, following consultation with the council's monitoring officer, to all authority's Councillors if they believed expenditure was likely to exceed incoming resources in the current or in any future year.

The report outlined the assessment of the Council's status as a going concern in line with best practice and in doing so, detailed the 2022/2023 year end position which showed an underspend of £69.896m. This had been transferred in to 2023/2024 and future year budgets to align with the latest expenditure profile.

The General Fund Balance was unchanged at £12.000m and there had been a slight increase in usable revenue reserves. Overall Net Assets had also increased from £319m to £798m due to the re-measurement of the defined benefit pension asset/liability.

The budget for 2023/2024 had been set with an increase in council tax of 2.99% and councillors and officers continue to work together to monitor and manage budgets throughout the year.

The Council's Director of Finance (Section 151 officer) view was that the Council was aware of the challenges it faced and was prepared to deliver its services in the future taking account of the known risks. Any transition required to deliver savings could be supported by transitional reserves, therefore the Council was a going concern and the Statement of Accounts would be prepared on that basis.

Councillor McDonough said that it was positive to see the growth in Council Tax and Business Rates and Mr Cook acknowledged the difficulty for the Council in delivering savings without changing the way it operated.

Accordingly the Committee: -

5. RESOLVED that the Council was considered to be a going concern based on the assessment in the report and that the accounts should be prepared and approved on that basis.

## **Data Protection Annual Report**

The Data Protection Officer submitted a report presenting information about the work and findings of the Council's Data Protection Office during the past year.

The Committee was asked to consider: -

- the Data Protection arrangements outlined in the report; and
- performance against Data Protection standards in the 2022/2023 year.

The Council had designated a Data Protection Officer (DPO) as required by Data Protection law, to advise on its data protection compliance responsibilities and act as its point of contact with the Information Commissioner's Office (ICO). The Council had historically received support with Data Protection compliance from the Council's Data Protection Office, a Strategic Information Governance Group made up of senior officers and chaired by the Director of Finance in the role of Senior Information Risk

Officer (SIRO). The Data Protection Office also provided a DPO service under service level agreements to connected organisations, including the Council's wholly owned companies, NECA and those schools and academies which subscribed to the service.

A revised Information Management Policy and Strategy (IMPS) was approved by Chief Officer Group in October 2021. The IMPS was designed to reflect changes to working arrangements and priorities imposed by the Council's response to Covid, the migration to the Office 365 Microsoft Teams environment and the move to City Hall.

The Data Protection Office continued to provide advice and guidance to support Information Asset Owners (IAOs) and service areas with Data Protection compliance. The DPO team had continued to work with the Transformation Project Team and Corporate Support Service which had led to the development of comprehensive new Information, Advice and Guidance materials and training packages to support Information Asset Owners (IAOs) and staff, allowing them to 'self-serve'.

The attention of the Committee was drawn to the General Data Protection Regulation which was underpinned by the two key principles of transparency and accountability. The Council took a 'Data Protection by Design' approach to the planning, implementation and management of business systems and operational arrangements. It was now mandatory to carry out a Data Protection Impact Assessment (DPIA) for high-risk initiatives and to seek advice from the Data Protection Office with regard to their completion. During the year, the Data Protection Office had supported the Council and companies to develop 19 DPIAs for a range of projects, initiatives, and business process reviews.

Turning to subject access requests, 222 cases were closed in-year of which 136 were responded to within the statutory timescale of one calendar month and 86 cases exceeded the timescale. This compared to 94 being in-time and 69 exceeding timescales in 2021/22. Given the substantial upturn in new requests, the maintenance of performance could be substantially attributed to the changes to working practices, especially the adoption of new digital processes and the reversion to regular physical access to records held in the City Hall.

Subject access requests could be challenging work with a large volume of records to be reviewed and delays could incur when Health and other professionals were asked to give their view before the release of records originating from their area of work.

The attention of the Committee was drawn to Appendix A of the report which detailed the numbers and gradings of data breaches reported for the period from 1 April 2022 to 31 March 2023 and Appendix B which provided information about the types and distribution of breach reports across the Council's Directorates and companies.

There had been fewer data breaches in 2022/2023 with 58 being reported against 96 in 2021/2022 and no breaches had been reported to the Information Commissioner's Office in the course of the year in comparison to four such reports in 2021/2022.

A change to compliance monitoring had been introduced in 2022/2023 and compliance issues were now captured; these were not personal data breaches

where there had been a loss or unlawful disclosure of personal data but could be an infringement with any element of the GDPR. 24 issues were recorded during the year with three key themes emerging: -

- Customers complaining that they did not consent to their data being shared, or that they were not made aware that their consent was not required as the basis to share.
- Complaints regarding the time taken to process Subject Access Requests
- Issues around Data Protection by Design, whereby DPIAs had not been undertaken, processor contracts or data sharing agreements with partner agencies were not in place.

An ongoing programme of compliance checks, utilising the ICO's Accountability Framework, would continue into 2023/24, with periodic reports containing recommended actions for implementation being issued to Info Asset Owners.

Further embedding of 'Data Protection by Design' principles would be critical to ensure the DPO was involved at the earliest opportunity with new initiatives as the Council and partners moved into the era of City Hall and to support the objectives of the City Plan.

It was highlighted that the Government had tabled a Data Protection and Digital Information (DPDI) Bill which would modify some elements of the UK GDPR and Data Protection Act 2018. The Data Protection Office was monitoring progress of the Bill and would report to SIGG and Chief Officer Group when more detailed implications emerged.

Mr Knowles noted that there had been a big increase in Subject Access Requests and that around half of these had been completed within statutory timescales. The Data Protection Officer explained that the team had explored a number of technological options but it could be very difficult when dealing with children's social care with multiple siblings for example. It had been found that no tool could do the work to the team's satisfaction; there was scope for AI to be used in the future but the machine learning element of the technology was not yet up to scratch.

Consideration having been given to the report, it was: -

6. RESOLVED that the Data Protection Annual Report 2022/2023 be noted

### **Dates and Times of Next Meetings**

7. RESOLVED that the following schedule of meetings be noted: -

Friday 22 September 2023 at 1.30pm

Friday 2 February 2024 at 1.30pm

Friday 26 April 2024 at 1.30pm

(Signed) G N COOK  
Chair

