

AUDIT AND GOVERNANCE COMMITTEE

Friday 23 July 2021

Present:

Mr G N Cook in the Chair

Councillors Nicholson, Price and P Wood together with Mr M Knowles

In Attendance:

Jon Ritchie (Executive Director of Corporate Services), Paul Davies (Assistant Director of Business and Property Services), Tracy Davis (Senior Manager - Assurance), Paul Dixon (Chief Accountant), Nick Humphreys (Data Protection Officer), Diane Harold (Mazars) and Hazel Mackel (Executive Governance Services Team Leader).

Prior to the commencement of the business of the meeting, the Chair welcomed Councillors Nicholson and Price who were attending their first meeting of the Committee.

Declarations of Interest

There were no declarations of interest.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors N MacKnight and Stewart.

Minutes

The Chair referred to the item, "Member Training and Development," and having reported that the update on the City Plan would now be received at the Committee meeting in September, it was:-

1. RESOLVED that the minutes of the meeting of the Committee held on 30 April 2020 be confirmed as a correct record subject to the following amendments on the item, "Audit Strategy Memorandum" (page 5 of the minutes):-
 - Paragraph 4 - "A group audit approach would be taken to include the Council, Together for Children and Sunderland Lifestyle Partnership.

Desktop reviews would be carried out for the Council owned companies with their own external audit arrangements” to be amended to “*A group audit approach would be taken to include the Council and its consolidated interests, with desktop reviews of non-significant components.*”

- Paragraph 5 – to amend the reference of ‘re-list’, to ‘de-list’.

Council’s Going Concern Status Report

The Executive Director of Corporate Services submitted a report to consider and agree the Council’s status as a going concern.

The report outlines a new annual action on the assessment of the Council’s status as a going concern in line with 2020/2021 CIPFA / LASAAC Code of Practice on Local Authority Accounting (accounting Code). The provisions in the Accounting Code on the going concern accounting requirements reflected the economic and statutory environment in which local authorities operated. These provisions confirmed that local authorities had no ability to cease being a going concern as described by IAS 1 Presentation of Financial Statements. As local authorities could not be dissolved without statutory prescription, it would not be appropriate for the Council’s financial statements to be prepared on any other than a going concern basis.

The Committee attention of the Committee was drawn to the 2020/2021 year end position which highlighted that there had been an underspend of £0.264 million. A significant reprofiling of capital had been undertaken but given the size and that it was spanning multiple years, there was no concerns of affordability or deliverability. The reprofiling had been necessary for issues beyond the control of the Council in relation to the availability of labour and materials.

The Executive Director of Corporate Services advised 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. The health of the Council’s balance sheet had been assessed and the key points were set out in paragraph 4 of the report.

Section 5 of the report highlighted the current year’s budget and the individual reserves were set out in a table on page 12. The Council had agreed the revenue budget for 2021/2022 on 3 March 2021 at £204.880 million. The budget was balanced by increasing council tax by 4.99% (1.99% council and 3% Adult Social Care precept), budget savings of £6.267 million and a planned use of reserves of £2.288 million. The budget for the capital programme for 2021/2022 totalled £248.763 million. Cash had been managed to ensure a positive cash flow throughout the pandemic and this continued to be the position projected forward. Both the revenue and capital budgets continued to be carefully monitored.

The Council’s General Fund Reserve stood at £12.000 million. This was 5.86% of the original 2021/2022 revenue budget, this was in accordance with the existing policy and was considered prudent and robust given the overall level of reserves.

The Council had set a balanced budget however the current MTFP covering the period 2021/2022 to 2024/2025 estimated a funding gap of £62.516 million over the

four-year period. Current council tax and business rate growth and inflationary forecasts totalled £26.786 million over the same period. Therefore, the net MTFP shortfall over the four-period indicated savings requirements of £35.730 million. A continued and iterative development of a programme of activity to address the gap, taking into account the strategic vision of the Council's role in the future, would be undertaken.

In conclusion, the Executive Director of Corporate Services reported that it was his view is 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.

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

2. RESOLVED that approval be given to the Council being considered as a going concern based on the assessment in the report and that the accounts be prepared and approved on that basis.

Risk and Assurance Map - Update 2021/22

The Assistant Director of Business and Property Services submitted a report to enable the Committee to consider:-

- the updated Risk and Assurance Map and supporting Strategic and Corporate Risk Profiles based on assurances gathered from a range of sources;
- work undertaken by the audit, risk and assurance service during the year to date; and
- the performance of Internal Audit.

The proposed Risk and Assurance Map and planned work for the year had been agreed by the Committee in April 2021.

The Assistant Director of Business and Property Services referred to the Risk and Assurance Map at Appendix 1 which had been updated to reflect any changes to both the Strategic and Corporate Risk Profiles. He advised that all changes to the Strategic Risk Profile were shown in red text for ease of reference and highlighted the key changes, namely:-

- An alternative risk description was suggested for R06 from '*Unable to maximise the opportunities to advance wired and wireless connectivity.*' to '*Unable to maximise the opportunities created by the Smart City Infrastructure*'
- An additional risk had been added at R08A described as '*Due to lack of support, families are not sufficiently resilient and resourceful to respond to challenges and achieve the best possible outcomes for their children.*' This risk had been assessed as having a current score of 8, Amber.

- The risk description for risk R09 had been changed from '*Health outcomes in Sunderland are still poor and there are significant health inequalities.*' to '*Unable to improve the historically poor Health outcomes in Sunderland and reduce health inequalities.*' with no change to the risk score.
- A new risk had been added at R018 described as '*Council fails to provide support for victims of domestic abuse as required by the Domestic Abuse Act 2021.*' This risk had been assessed as having a risk score of 8, Amber.

Turning to Appendix 1, the Committee was advised that ratings would remain marked as red for Together for Children until a different Ofsted opinion had been received. The rating for finance in respect of another Council Owned Company, Siglion, had not been received until after the agenda was published and this had been identified as green. Those areas marked "X" with no rating identified were due to that piece of work having not yet been completed.

The audits to be carried out this year and the detailed results of completed Internal Audit work was shown at Appendix 4, with the summary outcomes shown on the Map. One marked without an opinion was Collections Management and the Assistant Director of Business and Property Services advised that that piece of work would be undertaken in this year.

The performance in relation to targets set for Internal Audit was shown at Appendix 5 and all Key Performance Indicators were on target.

Councillor Wood having enquired why some text in Appendix 2 appeared crossed out was advised that for transparency deleted text was shown crossed out with new added explanatory text shown in red.

Mr Knowles noted that the addition of newly identified risks had been allocated an amber rating and he enquired whether that was the starting point until assurance was given. The Assistant Director of Business and Property Services advised that for the new risks identified, which had arisen out of the Covid-19 pandemic, an amber rating had been given as the size of the action and response to the implications had not been identified yet. He assured that however funding had been set aside to deal with the response. He added that the new risks in respect of the Domestic Abuse Act were new responsibilities for the Council and again an amber rating had been applied in order to focus a response. The Executive Director of Corporate Services reported that the Council was examining governance models with the CCG and depending on which model was selected it would have specific mechanisms and funding flows. He advised that guidance on this matter would be available by the end of August and assured that it was being addressed.

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

3. RESOLVED that the report be noted.

Annual Report on the Work of the Committee 2020/2021

The Assistant Director of Business and Property Services submitted a report which provided a summary of the work undertaken by the Audit and Governance Committee during 2021/2021 and the outcome of this work. The purpose of the report was to demonstrate how the Committee had fulfilled its role and would be presented to Council once agreed by this Committee.

The Assistant Director of Business and Property Services reported that despite the Covid pandemic, the Committee had fulfilled all of its duties. He highlighted that the Committee had been proactively monitoring activity in a number of important areas, namely:

- Risk and Assurance Map – The Committee had closely monitored activity in relation to the impact of Covid on the Council's strategic risks.
- Treasury Management – The Committee had received regular updates regarding the Council's performance in relation to Treasury Management.
- *Internal Audit* - The Committee had received assurance that Internal Audit had been able to give an opinion on the control arrangements in place due to the integrated assurance arrangements in place although a full audit programme had not been completed due to the Covid pandemic.

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, including the impact of the Covid pandemic.

Having noted the positive report, it was: -

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

Treasury Management Annual Review 2020/2021

The Executive Director of Corporate Services submitted a report which presented the Treasury Management borrowing and investment performance for 2020/2021 in accordance with the requirements of the Treasury Management Policy Statement and Treasury Management Strategy approved by Council on 4 March 2020.

The Treasury Management function continued to contribute financial savings which were used to provide funding to support the Council's revenue budget. The average interest rate of the Council's borrowing at 2.83% was low and this compared favourably with other local authorities as did the 0.45% rate of return achieved on investments.

Members were reminded of the basis for the agreed Borrowing Strategy for 2020/2021 and that it had been reviewed in July and October 2020 and February 2021 and was updated where necessary to reflect changing circumstances. The strategy for 2020/2021 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 4.25% for long-term borrowing was set for 2020/2021 in light of the views prevalent at the time the Treasury Management policy was set in March 2020.

There had been considerable volatility in financial markets during 2020/2021 and PWLB rates had started the year at 2.54%, before gradually rising to a peak of 2.91% in mid-November 2020. Then on 26 November 2020, a 1% rate cut was implemented, reversing the 1% increase in rates introduced by the Government in October 2019. This resulted in rates falling to a low of 1.52% during December 2020 before steadily rising to end the financial year at 2.19%.

Due to high levels of volatility in the financial markets, with borrowing rates forecast to remain low over the short-term, no new borrowing was taken out during the financial year. The overall longer-term expectation is for gilt yields and PWLB rates to rise slowly. The Treasury Management team continued to closely monitor rates to assess the value of possible further new borrowing in line with future Capital Programme requirements.

The Authorised Borrowing Limit for External Debt had been set at £842.243m for 2020/2021 and the Operational Boundary for External Debt was set at £817.243m and the authority was well within the tolerances for these.

The Investment Strategy for 2020/2021 was also approved by the Council on 4 March 2020 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 £218.243 million and all investments complied with the Annual Investment Strategy.

Councillor Wood having enquired if there was any concern in relation to inflation increases following a stable period, was advised that all indications were that it was a short-term impact and it is expected to reduce in the near future.

Following consideration of the report, the Committee:-

5. RESOLVED that the positive Treasury Management performance for 2020/2021 be noted.

Treasury Management First Quarterly Review 2021/2022

The Executive Director of Corporate Services submitted a report presenting the Treasury Management performance to date for the first quarter of 2021/2022 and setting out the Lending List Criteria and Approved Lending List.

The Covid-19 pandemic continued to have a significant impact on financial markets and economic forecasting and had required a pro-active approach to Treasury Management to support the Council's response to the pandemic. This had included holding higher levels of cash balances to support the Business Rate payer grants,

stringent monitoring of cash flow and any investments being short term to ensure both liquidity and security of funds given increased economic uncertainty.

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. In respect of borrowing, due to the temporary use of reserves to fund the Capital Programme no new borrowing has been required to date during 2021/2022 but the position continues to be monitored closely.

The Council's interest rate on borrowing was low, currently 2.78%, 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 0.11% compared with a benchmark of -0.08%.

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 economic climate was likely to be unclear and uncertain for some time.

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.

In response to an enquiry by the Chair in relation to the timing of new borrowing, the Executive Director of Corporate Services advised that the PWLB interest rates were monitored on a daily basis. The attention of members was drawn to the PWLB rates in paragraph 1.8 of the report to highlight the different interest rates between the 25- and 50-year terms. He explained that it was a case of examining when it was the best time to lock in investments on lower rates and utilising cash rather than borrowing where appropriate.

Mr Knowles requested assurance on the inclusion of the new lending institutions on the Approved List and if it was to increase agility and flexibility. The Executive Director of Corporate Services explained that approved list ensures that all efforts and resources were not concentrated which could over-expose the Council. The range of institutions enabled the Council to achieve flexibility and balance liquidity, yield and assurance. He advised that whilst there were no certainties, the Council was taking all reasonable steps to mitigate against any risk.

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

6. RESOLVED that: -

- (i) the Treasury Management performance during Quarter 1 of 2021/2022 (Appendix A) be noted; and
- (ii) the Lending List Criteria at Appendix B and the changes to the Approved Lending List at Appendix C be noted.

Data Protection Annual Report

The Assistant Director of Business and Property Services and the Data Protection Officer submitted a joint report presenting the Data Protection Officer's annual report of work and findings to the Committee for consideration.

The Committee was asked to consider: -

- the Data Protection arrangements outlined in the report; and
- performance against Data Protection standards in the 2020/2021 year.

The Committee was advised that there had been a degree of change over the last year, following the departure of both the previous DPO and SIRO in mid/late 2020. The DPO function was picked up by the Assistant Director of Business and Property Services until a new DPO was appointed in March 2021, and the SIRO role now lay with the Executive Director of Corporate Services. In addition, both Information Governance groups were suspended due to changes to working arrangements and priorities imposed by the Council's response to Covid. The Data Protection Office had provided more direct advice and guidance to support service areas with DP compliance during this period.

The attention of the Committee was drawn to the General Data Protection Regulation key principles and to put in place appropriate technical and organisational measures to meet the requirements of transparency in addition to the requirements of the data protection principles. To support these requirements the Council took a 'Privacy 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. The purpose of the DPIA was to identify potential risks to individuals' data protection rights, and to consider how these could be negated or mitigated.

During the year, the Data Protection Office had supported the Council and its connected organisations, including the Council's wholly owned companies, NECA and those schools and academies that subscribed to the service, to develop 24 DPIAs for a range of projects, initiatives, and business process reviews. This had included ongoing involvement in advising on elements of the Office 365/Windows 10 project, a range of public health programmes to support Covid responses, the roll-out of Assistive Technology in Adult Social Care, and sharing information with partners to support the Southwick Area Raising Aspirations (SARA) initiative. Arrangements remained in place with ICT and Corporate Procurement to check that a DPIA had been considered before progressing.

The Data Protection Officer reported that there remained a requirement for service areas to maintain a Record of Processing Activity (ROPA) for all business activities involving personal data, to support the accountability principle. In addition, the Council maintained e-learning for Elected Members and Council staff on the learning hub and both Elected Members and staff were required to maintain their data protection knowledge using these modules.

Turning to subject access requests, 140 cases were closed in-year of which 61 were responded to within the statutory timescale of one calendar month and 79 cases exceeded the timescale. This compared to 95 being in-time and 49 exceeding timescales in 2019/20. This downturn could be substantially attributed to the changes to working practices dictated by Covid, especially physical access to records held in the Civic Centre due to lockdown.

It was explained that historically it had proved challenging to respond within time-limits where a case involved multiple files/records, in particular in children's social care, where a given case involved multiple family members, which often made consideration of the interplay between individuals' privacy rights particularly complex. There was also a statutory requirement that Health and other professionals were asked for their view on the release of records originating from them and this could incur delay. The Information Commissioner's Office (ICO) had taken a pragmatic view of the matter, especially under Covid arrangements. Nonetheless, Access to Files continued to review working practices to improve the service offered.

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 1st of April 2020 to 31st March 2021 and Appendix B which provided information about the types and distribution of breach reports across the Council's Directorates and companies.

Where there was a serious breach in data protection, this was reported to the ICO and there was one such incident during the course of the year compared to five in the previous year. This related to an addressing error on Council Tax correspondence which led to personal details and distressing allegations being posted on social media. Although the Council was not responsible for the posting, it recognised that it did not have sufficient controls in place to mark the correspondence as 'Addressee Only' or a procedure for recipients to follow when post was received in error. This effectively 'enabled' the social media posting, the contents of which could be considered to infringe the rights and freedoms of the affected party, and thus warranted notification to the ICO.

There had been no formal enforcement action taken in relation to the Council's, or its connected organisations', compliance with their data protection responsibilities. Where the ICO made recommendations, as in the case noted above, these had been accepted and implemented.

Throughout 2020/21, the Data Protection Office had supported the Council and its partners in implementing data sharing arrangements in response to the Covid-19 pandemic against a changing set of requirements, guidance and legislation. The Office had also provided advice and guidance to mitigate the highest risks where possible. The Data Protection Office has supported the developing proposals for the design and occupation of City Hall and the agile working arrangements inherent to it,

and also the closure of the Civic Centre, with particular emphasis on the archiving or secure disposal of both paper and electronic records.

The Data Protection Office has developed a revised Service Plan for 2020/21. The plan highlighted the need for an updated Information Management Strategy, review of the suite of policies around Data Protection, an updated Performance and Reporting Framework and a programme of compliance audits to reflect new working arrangements.

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

7. RESOLVED that the Data Protection Annual Report 2019/2020 be noted.

External Auditor's Progress Report

Mazars, the Council's external auditors, had submitted a report which outlined the progress in delivering its responsibilities as the external auditors and included, at Section 2, a summary of recent reports and publications.

Diane reported the Value for Money risk assessment had been completed and there were no new risks, other than the financial sustainability risk previously reported in the Audit Strategy Memorandum for 2020/21. In this quarter audit work on the 2020/21 financial statements was being undertaken and there were no significant matters to report at this stage of the audit.

The Committee was advised that the Audit Completion Report would be submitted to the September meeting for information.

Diane highlighted that the focus of the audit remained on fixed assets, property, pensions and Covid-19 grant funding. The only potential hold up to the completion of the audit might arise from the receipt of assurance from the Pension Fund auditor following the merger of the Tyne and Wear Pension Fund with the Northumberland County Council Pension Fund. She advised that the work was being undertaken remotely and anticipated that the audit would run smoothly as there were no issues and everything was on track.

The attention of the committee was drawn to the list of national publications. In particular to the consultation by the MHCLG on the methodology of allocating the £15 million in additional funding in 2021/22 it had announced towards external audit fees and the development of the proposed new standardised statement of service information and costs in recognition of the additional pressures on auditors to audit fixed assets and pensions. Councils had been paying higher fees and this had been recognised by Government and central bodies.

Following consideration of the report, it was:-

8. RESOLVED that progress report be noted.

(Signed) G N COOK
Chair