

GOVERNANCE AND AUDIT COMMITTEE

26 July 2022

Present:- Councillor Paul Smith (Chair)
Councillor Dave Harris, Councillor Sam McCarthy,
Councillor Rhys Smithson, Councillor Dennis Willetts,
Councillor Barbara Wood

Substitutions: Councillor Sam McLean for Councillor Chris Pearson

Also Present:- Councillor King*, Councillor Cory*

* Attended remotely

319. Minutes of the previous meeting

RESOLVED that: the minutes of the meeting of 21 June 2022 be confirmed as an accurate record.

320. Local Government Association Model Code of Conduct

The Committee considered a report asking the Committee to review the model code of conduct and decide whether to make a recommendation to Council that it be adopted.

Andrew Weavers, Monitoring Officer, introduced the report to the Committee and assisted the Committee in its deliberations. The Borough Council had adopted its current Code of Conduct in 2012 and it had been subject to an annual review by the Governance and Audit Committee. It had served the borough well. In 2019 the Committee on Standards in Public Life had made a recommendation to the Local Government Association that it should produce a model Code of Conduct for all local authorities to consider adopting. This would improve consistency across authorities which would be particularly useful for those Councillors who served on more than one authority. The LGA had published a draft model code in December 2020, but there had been concerns amongst Monitoring Officers in Essex about the clarity of rules regarding declarations of interest and therefore they had not recommended it for adoption. In May 2021 a revised model code had been published which addressed these concerns.

Some of the highlights of revised code were:-

- It was written in the first person, which made it more personal.
- It contained specific provisions on social media, which made the position clearer and made the code more relevant.
- It provided commentary which was useful in understanding the obligations placed on members by the code and would also help ensure consistent interpretation.
- It provided a clear definition of bullying.

As a consequence, Monitoring Officers across Essex were recommending adoption, and a number of Councils in Essex had already adopted the model code.

It was appreciated that training for Councillors on the model code would be key and training would be provided to all councillors in advance of adoption. The LGA had provided a training pack to ensure a consistent approach across authorities. Town and Parish councils were also to be encouraged to adopt the model code, and it was noted that one in the Colchester area had already done so.

If the Committee recommended adoption the model code would be submitted to Council on 19 October 2022 with an implementation date of 1 December 2022.

In discussion the Committee were supportive of the new model code and stressed the importance of Councillors engaging with the training. Clarification was sought as to what plans there were to introduce the model code into the policies and processes of the Council's commercial companies. The Monitoring Officer advised that whilst the code would not apply directly to the companies, the code would apply to Councillors on the boards of the commercial companies, as they would be acting in their capacity as Councillors at that point.

The Committee also explored whether the model code would apply to all activities of Councillors, or whether the provision that the code did not apply to actions where an individual was not acting as a Councillor remained. The Monitoring Officer explained that the new model Code applied when an individual was acting as a Councillor, but it had been strengthened so that it applied when their actions gave the impression that they were acting as a councillor. It was suggested that the Committee should receive a report in due course on how this strengthening of the code was working.

It was confirmed to the Committee that central government had still not responded to the recommendations made by the Committee on Standards in Public Life.

RECOMMENDED TO COUNCIL that Colchester |Borough Council adopts the Local Government Association's Model Code of Conduct with effect from 1 December 2022.

RESOLVED that:-

- (a) the Monitoring Officer organises training for all Councillors on the Model Code of Conduct prior to its implementation.

- (b) the Monitoring Officer be requested to write to all Town and Parish Councils on the Borough recommending that they adopt the Model Code of Conduct and that training be offered.

321. 2021/22 Revenue Outturn

The Committee considered a report setting out the financial performance of the General Fund services and the Housing Revenue Account for the year 2021/22.

Paul Cook, Head of Finance, introduced the report and assisted the Committee in its deliberations. He explained that the budget for 2021/22 had been developed in December 2020 when the country was in lockdown. Consequently, the income predictions were very prudent. Matters had returned to normal quicker than had been anticipated, so the income loss had not been as great as predicted, plus additional government funding had been received. The budget had included an assumption that reserves of £2.4 million would need to be used, but it had not proved necessary to use that level of reserves. The outturn figure was close to the budget figure which was the result of hard work by managers across the Council.

In terms of the current financial year, the monitoring report for the first quarter would be reported to the Committee in September which would give an indication of how the Council was performing under the more normal circumstances now pertaining. As a lower level of reserves had been used in 2021/22 than anticipated, this had enabled the use of reserves to be carried forward into the proposals for the 2023/24 budget and for some to be released in the current year to deal with issues such as the cost of living crisis.

The outturn report was based on the Council's own figures as the audit for 2021/22 was some way from completion but no key issues with the figures had been identified so far.

In discussion, members of the Committee highlighted that there appeared to be arithmetical errors in Appendix B of the report. For example, the budget subtotal expenditure by Group figure totalled £54,042 and the second subtotal figure totalled (£29,693). It was suggested that these may be a consequence of rounding. However, the Finance Manager would check the figures and confirm the position.

Members also drew attention to the following issues in Appendix C:-

- the income shortfall of £87K in Private Sector Housing. This was a significant shortfall and further information as to the breakdown for this was requested.
- the 72% overspend on messenger and post room services in respect of the Contact and Support Centre, which seemed exceptionally high.
- The 29% overspend on bank transaction charges in respect of the Corporate and Democratic Core.
- The need to correct the figure for the Woodland Project which was currently shown as £55.

The Finance Manager undertook to provide further information to the Committee on these issues.

The Chair noted that the outturn figures compared very well with the budget projections and demonstrated extremely good financial performance in the circumstances.

RESOLVED that the financial performance of the General Fund Services and the Housing Revenue Account for the year 2021/22 be noted.

Councillor Cory (in respect of his previous membership of the North East Essex Clinical Commissioning Group) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

322. 2021/22 Year End Review of Risk Management

The Committee considered a report providing members with an overview of the Council's risk management activity undertaken during the financial year from 1 April 2021 to March 2022.

Andrew Weavers, Monitoring Officer, introduced the report to the Committee and assisted the Committee in its deliberations. He explained that the Committee were invited to review the Risk Management Strategy and recommend it to Cabinet, who in turn could refer it to Council for inclusion with the Policy Framework. There had been no changes to the fundamental processes underpinning the Strategy, but the opportunity had been taken to update some of the terminology. The strategic risks were reviewed quarterly by the Senior Management Team. The latest review had been undertaken in June and the risks identified were shown in the Risk Register. The current strategic risks facing the Council were set out at paragraph 1.4 of the Assistant Director's report.

In discussion, the Committee indicated it was surprising that risk ST2 on Spending Power did not identify public sector wage growth and the potential for industrial action as risks and also that the Risk Register did not identify key person dependency as a risk. The Monitoring Officer explained that these issues would be looked at the next review of the strategic risks by the Senior Management Team in September.

In respect of the Risk Matrix, concern was expressed by a member of the Committee that several risks had moved through two bands without sufficient detail on mitigation to explain why. More detail needed to be provided so there was better understanding of why risks had changed bands. In terms of residual risks, five risks sat outside the risk tolerance line and there was insufficient information to explain what was being done to move them back within tolerance. Confirmation was also sought as to who set the risk tolerances. In terms of the Risk Management Strategy, there was nothing on Black Swan events (i.e. events that were infrequent but had the potential to have a very significant impact threatening the future of the organisation). The Strategy should identify how these issues would be dealt with in future. Whilst the Risk Management Processes set out in Appendix 1 were noted, there was no reference to risk closure.

The Monitoring Officer explained that risk tolerances were agreed by the Senior Management Team and a written response on the issues raised on residual risks would be circulated to the Committee.

The Committee also explored issues relating to risk ST3 on Partnership Commitment. It was suggested that the Council ought to be more proactive in assessing the risks of dependency on partners and the possibility that they may change structure or direction, before the Council began to rely them for the delivery of strategic priorities. The Council should be more cautious in its reliance on partners for delivery of strategic priorities and should always consider the potential impact of

the failure of partner organisations at the outset. If services were delivered in house this risk was mitigated as Cabinet would have complete control. The pitfalls of partnership working were clearly shown in the commentary to risk ST3 and due diligence should have been undertaken on the Clinical Commissioning Group before entering into partnership with them. The risk would not have had such a high rating if the Council had sought the right assurances in the first place.

Other members of the Committee emphasised the importance of working with partners and that, given the resources under the Council's direct control, partnership working enabled the Council to deliver considerably more to residents. The Council did have to accept the risk that the financial position or strategic direction of partners could change. That needed to be assessed as early as possible and mitigated where possible but it should be recognised that it could be very difficult to assess the risk of, for example, a change in government policy. As partnerships developed and grew stronger the likelihood of this risk should decrease.

The need to keep risks under regular review, particularly those that related to frontline services that supported residents, was emphasised. This would minimise the risk of disruption to vital services for residents.

The Monitoring Officer explained risk ST3 looked at the implications for the authority if partnerships were to fail. It had been reviewed and raised as a risk for the reasons set out in the report. However, the Council did understand what those potential impacts were. As much mitigation as possible was put in place and the Council worked very closely with partners to try and ensure this did not happen.

The Chair invited Councillor King, Leader of the Council and Portfolio Holder for Strategy, and Councillor Cory, Portfolio Holder for Resources, to respond to the debate. Councillor King indicated that he had found the Committee's comments very helpful and he would continue to review and take advice on the issue. He believed the risk ST3 had been appropriately assessed and rated but the quality of relationships with partners was vital and mattered more than the quality of the project management. Councillor Cory indicated he understood the concerns that had been raised and that perhaps another level of assurance should be sought in such circumstances, given the importance of these partnerships in delivering the Council's priorities. He echoed the comments made about risks reducing as partnerships grew and emphasised that these partnerships reduced the Council's risks in terms of budgetary commitments. The changes in the health arrangements set out in risk ST3 had been driven by government policy. However, the relationships built up previously through the Alliance would mitigate the risks of these changes.

It was also queried whether risk CO3 on financial inequality should have increased, particularly in terms of probability, given the cost of living crisis. It was suggested that Cabinet could take note of this when it reviewed the Risk Register and Strategy.

RESOLVED that the submission of the Assistant Director's report to Cabinet to approve the risk management strategy for 2022/23 be endorsed.

323. Work Programme

The Committee considered its draft work programme for 2022-23.

The Committee suggested that the agenda for the November meeting looked very full and that there may be merit in looking at an additional meeting to give the Committee more time to consider these items. The Democratic Services Manager indicated that this would be looked at. There was likely to be an additional meeting in any case in order to allow the Committee to consider the work of the Council's Commercial Companies, in its role as shareholder Committee. Members of the Committee also suggested it would be useful if the agenda for particularly heavy meetings could be published in advance of the 5 day deadline, or for reports to be made available to the Committee as soon as they were ready. The Democratic Services Manager indicated that this would be looked at but that reports, were often on tight internal timescales with little leeway.

RESOLVED that:-

- (a) the work programme for 2022/23 be noted.
- (b) the possibility of an additional meeting in autumn 2022 be examined.