

GOVERNANCE AND AUDIT COMMITTEE

07 December 2022

Present:- Councillor Paul Smith (Chair)
Councillor Dave Harris, Councillor Sam McCarthy,
Councillor Sara Naylor, Councillor Chris Pearson,
Councillor Rhys Smithson

Substitutions: Councillor William Sunnucks for Councillor Barbara Wood

Also Present:- Councillor David King*, Councillor Mark Cory*

*attended remotely

344. Financial Monitoring Report – Mid-Year Review 2022/2023

The Committee considered a report giving it the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets, and which provided a further opportunity to assess progress against budget targets and income levels, and any resulting necessary action to mitigate any forecast budget variance will be considered.

Paul Cook, Head of Finance, attended the meeting to introduce the report and assist the Committee with its deliberations. The Officer's report set out the position as at the end of September 2022, and the Committee heard that it had been a particularly difficult year to control expenditure due to increasing inflation. The position presented to the Committee represented a lot of work which services had undertaken to control expenditure, and although the position was a developing one, it was considered that likely overspend was at a level which could be contained through use of the Council's reserves. Some gains had been realised due to investment interest rates which were significantly higher than had originally been budgeted for.

In response to questioning from the Committee, Paul Cook confirmed that the proposed level of reserve usage was acceptable, although not ideal. Very careful consideration would be given to the reserve position when setting the budget for 2023/2024, but the Committee was assured that current reserve usage was not unacceptable, and that much more detail on the position would be provided in budget reports to Cabinet in January 2023 in relation to the budget for 2023/2024.

A Committee member noted that the underspend on the Council's Capital Programme, combined with favourable interest rates on investments had been fortuitous for the Council this year, but sought confirmation that £68m was the right figure to have in short term investments. Paul Cook explained that the underspend

on the Capital Programme had been well documented, and it was accepted that there may be a better method of managing projects within the Programme. Because of the delays to the Capital Programme, the level of investments was higher than may have been expected, but the treasury position would be reset as part of the new Treasury Management Strategy, and it was felt that Officers were very well aware of any current issues, which would be addressed when setting the budget for 2023/2024.

Councillor King, Leader of the Council, attended the meeting remotely, and, with the permission of the Chair, addressed the Committee. He confirmed that the Council's Capital Programme was undergoing a thorough review, and the results of this review were expected in January 2023. The Committee heard that there was a struggle across Council services to manage a situation without precedent including rising energy costs, an interim pay award for staff, and Waste Service and Sports and Leisure Service pressures, which were detailed in the Officer's report. The Council's management team were working extremely hard to manage the situation in the light of these difficulties and additional inflationary pressures.

Councillor Cory, Portfolio Holder for Resources, attended the meeting remotely, and, with the permission of the Chair, addressed the Committee. The review of the Capital Programme had allowed the Council to make more short term investments taking advantage of higher interest rates, however, ongoing costs and inflationary pressures meant that the Council's position remained a very difficult one. Councillor Cory assured the Committee that the Council had a historic record of maintaining the right level of reserves, and making good use of shorter term borrowing to balance the costs of longer term borrowing. The long term impact of staff costs and pay rises, coupled with inflationary pressure and rising energy costs would, however, continue to have a long term effect on the Council and would require very tight budgeting in future years to address these costs.

Commenting on the continued delay in receiving the audited statement of accounts for 2021, a Committee member requested that the draft accounts for 2022 be presented to the Committee, considering that it was essential that sight of the draft accounts was essential to allow the Committee to carry out its governance role.

The Chair reminded the Committee that the problems with local authority accounts were widely known, and it was not just Colchester City Council that was blaming its external auditors for the delay, but also the Local Government Association (LGA), and sadly the Council's auditors had the worst record of all the auditors for local authorities. The Council's auditors, BDO, had been required to write to him by 30 November 2022 to explain the reason for the delay, and had done so on this deadline without giving any indication as to when the work would be completed. It was considered that the draft accounts could be made available to the Committee, possibly as an exempt item, as they were in draft form only.

Councillor Cory assured the Committee that he was very aware of the position with regard to the outstanding statement of accounts, and considered that it was extremely poor that the Council had been placed in this position by the actions of its auditors. He received regular updates from Officers on the situation, and work was

ongoing to ensure that the Council was not placed in this position in the future. Paul Cook confirmed that work with BDO was ongoing, and it was expected that the 2021 statement of accounts could be presented to the January meeting of the Committee with audit opinion, although no reliance should be placed on this date. The Committee was reminded that 2021/2022 outturn had been reported to it earlier on in the municipal year. There were potentially technical issues associated with publishing the draft statement of accounts prior to the completion of the previous year's audit, not least of which would be the commencement of public rights to inspect the accounts. If there were specific issues which the Committee sought clarification on with regard to the 2021/2022 outturn, then these could be dealt with without the need to publish draft accounts.

In discussion, the Committee considered whether the public would indeed have a right to inspect the draft accounts, if these were treated as an item which was exempt from publication when considered by the Committee. The Chair agreed to consult with the Group Spokespersons and the Leader and Deputy Leader of the Council on how best to seek sight of the draft accounts at the next Committee briefing meeting, taking legal advice if necessary.

A Committee member noted that issues with the late submission of audited accounts had been a problem for the past few years, across a number of Council administrations. They considered, however, that there was nothing within the figures that had been presented to the Committee during this period which had caused any concern, although considered that the extreme dissatisfaction of the Committee in relation to the delays was wholly justified.

Clarity was sought by the Committee on the impact which increased inflation actually had on the outturn figures, was this a good or a bad thing? It was noted that although the Council would potentially benefit from favourable rates on long term loans, the higher than anticipated inflation rates placed the Council under particular pressure on account of its high energy usage and staffing costs.

A Committee member commented on the £691,000 forecast overspend in respect of Neighbourhood services for Waste Staff, and queried a statement which the Portfolio Holder had made at Full Council indicating that winter contingency expenditure would be covered by the existing budget; how was this possible given the volume of overspend which had already been recognised? Paul Cook explained that the position would be carefully monitored and would become clearer when the quarter 3 and 4 figures were known, when updates would be provided. Officers were asked to explain the 48% overspend on banking charges, noted in the Officer's report, and Paul Cook agreed to provide a detailed explanation to the Committee after the meeting, together with more information about the possibility of recovering the costs of planning appeals.

Returning to the subject of the 2021/2022 accounts, Councillor Sunnucks, who is named in these minutes at his request, requested that the draft accounts be distributed just to the committee as a confidential item, as these would be far more useful to consider than the management accounts which were presented to the Committee. Clarification was sought on the rules around publishing draft accounts,

and whether or not the Council was in breach of these by failing to publish. Paul Cook confirmed that the primary Regulations were the Accounts and Audit Regulations 2015, which had been amended in 2021 and 2022 delaying the required publication dates. The Council was not in breach of any Regulations, as the Regulations provided that if the Council was not able to publish accounts on time, it simply had to explain the reason for the delay on its website. It was not considered that presenting the draft accounts to the Committee would present a particular problem, however Officer workload and the potential demands of work in relation to the completion of the 2020/2021 accounts meant that the draft accounts would be better presented to the March meeting of the Committee. In discussion, the Committee considered whether it would be better to circulate the draft accounts via email, but it was considered that publication of the document as an exempt item at the next meeting was probably preferable. Paul Cook suggested that it was possible that the draft 2021/2022 accounts could be presented as an open item to the meeting of the Committee in January 2023 as these accounts were substantially complete.

A Committee member sought assurance that the Council's risk management process was responsive and under constant review in the light of potential changes to the financial landscape or issues in the future such as further interest rate rises. The Committee was advised that the Council's Treasury Management Strategy was an important document in terms of managing financial risk which set out risks on interest rates, both on borrowing and investments. The Risk Register would be updated to ensure that current issues were covered.

In response to a question from the Committee, Paul Cook would provide an assurance outside the meeting that the noted underspend on the Housing Revenue Account on services and supplies had not been caused by holding back on delivering essential repairs to tenants.

RESOLVED that:

- The financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first six months of 2022/23, had been considered;
- the forecast budget overspend of £392k on the General Fund be noted.

345. Treasury Management Mid-Year Review

The Committee considered a report which was part of the cycle of monitoring treasury management, and which covered all the borrowing and investment activities of the Council.

Paul Cook, Head of Finance, attended the meeting to introduce the report and assist the Committee with its deliberations. The Committee heard that the Treasury Management Strategy was set ahead of the financial year, and was reviewed three times at key points during the course of the financial year by the Committee. The

Officer's report set out progress on the Council's Capital Expenditure Prudential Indicators, and delays in the Capital Programme meant that capital expenditure and borrowing were well within the limits set in the Strategy.

Following previous discussion in the Committee, the report also contained information in relation to the potential premature redemption of loans and Lender Option Borrower Option (LOBO)'s. The Public Works Loan Board (PWLb) would normally accept early redemption of any loan which had been advanced for over a year and had over a year left to run. The report also contained detail about the LOBO loans which the Council had, which had a long maturity and which were taken out some years ago totalling £5.5m.

There were increased requirements under the Prudential Code which would apply to the Council in 2023/2024. This would require an enhanced Capital Strategy, which would be helped by the current review of the Council's Capital Programme. The reporting frequency on Treasury Management would be increased to four times a year and it was therefore intended to co-ordinate Treasury, Revenue and Capital Monitoring reporting during the year.

In discussion, the Committee wondered whether it would be advantageous to consider requesting repayment of loans in January if this were to prove to be in the Council's favour. Paul Cook confirmed that although this may have been of benefit to the Council in the past, current circumstances were not so favourable, however, this was something which Officers were aware of and would consider at the appropriate time. The Committee considered that an annual review of the position would be helpful.

Following questioning from the Committee, it was confirmed that the level of borrowing which the Council was entitled to make was set by the Treasury Management Strategy, which was reviewed year on year in accordance with predicted levels of necessary borrowing. These predictions were adjusted in accordance with need, however, the Council would never borrow at a greater level than the Strategy allowed during a specific financial year. Borrowing to support capital projects would be subject to specific checks and limitations.

In discussion, the Committee considered the investment for service purposes which it was indicated that the Council had made, or planned to make, in Colchester Amphora Energy and Colchester Amphora Housing, and wondered how much had been allocated for this purpose, and what the terms would be. Paul Cook explained that the advances to the Council's wholly owned companies were set out in the Capital Programme which had previously been considered by the Committee. A Committee member noted that the Council had £4m of investment lodged with Thurrock Council, and sought assurances that this investment was secure and that it was appropriate to invest in other Council's. The Committee received assurance that it was not considered that there was any credit risk associated with lending to any Local Authority. Of the two loans which had been made to Thurrock Council, the first had been repaid already and there was nothing to suggest that the second loan would not be repaid shortly. The Council's lending criteria was set out in its Treasury Management Strategy.

RESOLVED that:

- the Treasury Management Mid-Year Review for 2022/23 be approved;
- the Council's Lender Option Borrower Option loans be reviewed annually to determine whether or not it was in the Council's interest to redeem them.

346. Overview of the Council's Procurement Policy – verbal update

The Committee received a verbal report which provided an update and overview of Colchester City Council's Procurement Policy.

Samantha Preston, Group Manager - Customer, attended the meeting to introduce the report, and assist the Committee in its deliberations. Following a recent internal audit, the Council's procurement system was being reviewed and updated, which was a significant piece of work as the old system was intertwined with many complex documents and procedures within the Council including Contract Procedure Rules and an out of date Procurement Strategy. It was intended to revise the Council's Constitution to increase the efficiency of the procurement process, and to develop a new Procurement and Social Value Strategy alongside this.

It was important to ensure that social value was obtained from contracts wherever possible, although social value was not to be obtained through simply paying more on a contract, but by considering the whole picture to ensure that best value for money was received while helping the local community.

Existing contracts had been reviewed, and the intention was that the Council identified what its social value and priorities would be when considering future contracts. Although the Council did have a system which required tenders with a value of over £100,000 to complete a complicated questionnaire, it was intended to streamline this process for both suppliers and staff. Consideration was also being given to introducing a social value element to the procurement of lower value contracts.

An audit had been carried out reviewing all spend over £45,000 and a number of areas of specific review had been identified including spend categories and expired framework contracts. The centralisation of corporate contracts such as small works, tree works, stationary and cleaning materials was also being considered, and work was ongoing with other local authorities to explore the possibility of joint procurement for such contracts. A new financial management system was being implemented and would go live in late 2023 which would include full category management and an improved supplier process.

A review of all procedures was underway, and a new procurement system was being considered which would integrate with the financial management system and which would include a new formal quote process. A new structure had been implemented which drew together the Council's strategic procurement and purchasing functions, and a full training programme was to be commenced in 2023. It was noted that the

Council's current system of payment authorisation was extremely complex, and it was intended that this be simplified in order to introduce greater clarity of responsibility for Officers by introducing a single clear limit of financial transaction which could be authorised.

The Committee welcomed the work which was being undertaken, and a Committee member noted that procurement represented an opportunity to drive savings as well as delivering value of other kinds, and in the light of this, what alternative operating modes for procurement had been considered? Sam Preston advised the Committee that the Council was open to considering any different operating models as part of the ongoing review, for example working with other local authorities in partnership to explore areas such as pooled resources to increase resilience. A Committee member noted that larger scale procurement was an opportunity to drive greater savings, potentially in partnership with other local authorities or public entities. They sought assurance that this was being considered to ensure that the greatest value was being achieved for the people of Colchester, including social value.

In discussion, clarity was sought on what the Council considered to represent social value in procurement, and the Committee was advised that the Council currently used standard criteria for assessing this, known as the Themes, Outcomes and Measures (TOM) criteria which was used nationally and in the local region. Areas which were considered via TOM included the environment, local employment and how employees of the contractor were paid. What the Council considered to represent social value was currently under consideration, and the views of each service would be sought in relation to this. The Committee welcomed the ongoing work which was being undertaken, and looked forward to receiving an update as new policies were developed in this area. A Committee member considered that thought should be given to striking a balance between recognising entrepreneurial contracts with high social value and centrally controlled contracts.

RESOLVED that:

- the contents of the update be noted,
- the Committee wished to receive a further update as the development of the Council's Procurement Policy progressed

347. Work Programme

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

Matthew Evans, Democratic Services Officer, attended the meeting to introduce the report, and assisted the Committee in its deliberations.

RESOLVED that:- the work programme for the Governance and Audit Committee be amended to read as follows:

17 January 2023

1. CCHL Half-Year Performance Report
2. Annual Review of the Council's Companies' Business Plans

15 February 2023

1. Interim Review of the Annual Governance Statement Action Plan
2. Risk Management Progress Report
3. Mid-Year Internal Audit Assurance Report 2022/2023
4. Annual Review of Business Continuity