

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

30 July 2020

- * Councillor Nigel Manning (Chairman)
- * Councillor Deborah Seabrook (Vice-Chairman)

- * Councillor Liz Hogger
- * Councillor Ramsey Nagaty
- * Councillor George Potter
- * Councillor John Redpath
- * Councillor James Walsh

Independent Members:

- *Mrs Maria Angel MBE
- *Mr Murray Litvak

Parish Members:

- Ms Julia Osborn
- Mr Ian Symes
- *Mr Tim Wolfenden

*Present

The Leader of the Council, Councillor Caroline Reeves, the Deputy Leader of the Council, Councillor Joss Bigmore, the Lead Councillor for Resources, Councillor Tim Anderson, and Councillor Paul Spooner were also in attendance.

CGS11 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Julia Osborn (parish member).

CGS12 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

CGS13 MINUTES

The Committee confirmed as a correct record the minutes of the meeting held on 18 June 2020. The Chairman would sign the minutes at the earliest opportunity.

CGS14 CAPITAL AND INVESTMENT OUTTURN REPORT 2019-20

The Committee considered the Capital and Investment Outturn Report for 2019-20, which had included:

- a summary of the economic factors affecting the approved strategy and counterparty update
- a summary of the approved strategy for 2019-20
- a summary of the treasury management activity for 2019-20
- details of compliance with the treasury and prudential indicators
- non-treasury investments
- capital programme
- risks and performance
- Minimum Revenue Provision (MRP)
- details of external service providers
- details of training

The Committee was informed that total expenditure on the General Fund capital programme in 2019-20 had been £48.1 million, which was less than the budget by £38.7 million. Details of

the revised estimate and actual expenditure in the year for each scheme were set out in Appendix 3 to the report. Although the budget for Minimum Revenue Provision (MRP) had been £1.02 million, the outturn had been £926,639, due to slippage in the capital programme in 2018-19.

Councillors noted that the Council's investment property portfolio stood at £153 million as at 31 March 2020. Rental income had been £8.4 million, and income return was 6% against the benchmark of 4.7%.

The Council's cash balances had built up over a number of years, and reflected the strong balance sheet, with considerable revenue and capital reserves. Officers carried out the treasury function within the parameters set by the Council each year in the Capital and Investment Strategy. As at 31 March 2020, the Council held £107.6 million in investments, £44 million of short-term borrowing and £192 million of long-term borrowing, resulting in net debt of £129 million.

The report confirmed that the Council had complied with its prudential indicators, treasury management policy statement, and treasury management practices for 2019-20.

The Committee noted that the slippage in the capital programme had resulted in a lower Capital Financing Requirement than estimated. Interest paid on debt had been lower than budget, due to less long-term borrowing taken out on the General Fund because of slippage in the capital programme.

The yield returned on investments had been lower than estimated, but the interest received had been higher due to more cash being available to invest in the year – a direct result of the capital programme slippage.

Officers had been reporting higher interest receivable and payable and a lower charge for MRP during the year as part of the budget monitoring when reported to councillors during the year.

The report had also set out detailed information on the return on investments, and interest paid on external debt.

During the debate, the following queries were raised:

- a) In relation to performance of investment property, what percentage of rent roll was received for the March quarter day?
- b) In the table in paragraph 3.11 of Appendix 1 to the report on page 35 showing General Fund items of capital expenditure, there appeared to be an error in respect of the variance in respect of the Rodboro through road scheme, which was shown as 0 in the table.
- c) In the same table, an explanation was requested as to the reason for the 50% overspend on Strategic property.
- d) In the same table, it was clarified that the £4.4 million variance in respect of the Weyside Urban Village project related to actual expenditure against the original budget, which did not take account of a subsequent revised budget.
- e) The projected rental income on investment property for 2020-21 was approximately £7.5 million.

In relation to a) to c) above, Officers would circulate a response to each of these queries following the meeting.

The Committee also noted the following additional points:

- Whilst the Council investments generally included commercial property, there was a prudent diversity in investments in order to spread the risk.
- The Council's property investments in CCLA totalling £6.5 million related to retail and offices, but mainly industrial property across the country.

- Given that demand in the local office market was generally for smaller space, and in view of the costs associated with dividing large office buildings into smaller lettable units, it was confirmed that there were no plans to divide the Council's remaining office properties. It was also understood that any that might require revised layouts in the future would not be too expensive to divide.

The Committee, having noted the various corrections on the Supplementary Information Sheet and that the outturn report would also be considered by the Executive at its meeting on 22 September 2020, and by full Council on 6 October 2020

RESOLVED: That, subject to the comments referred to above, the report be commended to the Executive.

Reason:

To comply with the Council's treasury management policy statement, the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on treasury management and the CIPFA Prudential Code for Capital Finance in Local Authorities.

CGS15 GENERAL FUND REVENUE OUTTURN REPORT 2019-20

The Committee received a report setting out the final position on the General Fund and the Collection Fund revenue accounts, for the 2019-20 financial year.

Overall, the outturn on the General Fund had been £331,208 less than originally budgeted, which reflected the Council's continued sound financial management. The report had set out the major reasons for the variance.

Net income from interest receipts had been £1.194 million more than estimated and the minimum revenue provision (MRP) for debt repayment had been £39,640 lower than estimated.

In accordance with the authority delegated to the Chief Finance Officer, in consultation with the Leader of the Council and the Lead Councillor for Resources, the underspent balance had been used to make a transfer to the Invest to Save Reserve to support the transformation agenda.

Details of the closing balance on all the Council reserves were set out in the report, together with the ongoing policy for each.

The Committee noted that the Business Rates balance on the Collection Fund was particularly susceptible to movements in the number and value of appeals that businesses had made against their rateable values. The Council had no control over these appeals and had limited information from the Valuation Office to help assess the potential impact.

The Committee was advised that there was an overall deficit on the Collection Fund of £1.6 million.

The outturn position would be included in the Statement of Accounts to be signed by the Chief Finance Officer on or before 31 August 2020 which would be subsequently audited by the Council's external auditor, Grant Thornton. The Committee would review the audited accounts at its meeting on 19 November 2020.

Having noted the corrections on the Supplementary Information Sheet, and that this matter would be considered by the Executive at its meeting on 22 September 2020, the Committee

RESOLVED: That the report be commended to the Executive.

Reasons:

- To note the final outturn position and delegated decisions taken by the Chief Finance Officer, which have been included within the statutory accounts the Chief Finance Officer signed at the end of May.
- To facilitate the on-going financial management of the Council.

CGS16 HOUSING REVENUE ACCOUNT FINAL ACCOUNTS 2019-20

The Committee received a report setting out the final position on the Housing Revenue Account (HRA) for the 2019-20 financial year. The HRA recorded all the income and expenditure associated with the provision and management of Council owned residential dwellings in the Borough.

This report sets out the actual level of revenue spending on day-to-day services provided to tenants recorded in the HRA in 2019-20.

Rental income from dwellings had been £165,000 (0.55%) below the estimate. The actual net cost of revenue services in 2019-20 had been £432,916 higher than the budget of £15,809,270. This variation represented 2.73% of the total turnover of £32.37 million. The final outturn (subject to audit) had shown a surplus for the year of £10.3 million, compared to a budgeted surplus of £10.93 million. The HRA working balance at year-end remained at £2.5 million.

In accordance with the authority delegated to the Chief Finance Officer, in consultation with the Lead Councillors with responsibility for Housing and Finance, the surplus had been used to make a transfer of £2.5 million to the reserve for future capital programmes, with the balance of £7.8 million being transferred to the new build reserve.

This continued the policy adopted in previous years, whereby the year-end surplus was applied to each of the above two reserves.

During the debate, the Committee noted that there were approximately 5,200 properties held in the HRA, and although 19 had been sold under the Right to Buy during the year, the Council was adding to the stock with its new build programme.

Having noted that this matter would be considered by the Executive at its meeting on 22 September 2020, the Committee

RESOLVED: That the report be commended to the Executive.

Reason:

To allow the Statutory Statement of Accounts to be finalised and subject to external audit, prior to approval by the Corporate Governance and Standards Committee, on behalf of the Council.

CGS17 FINANCIAL MONITORING 2020-21 (APRIL-MAY 2020)

The Committee considered a report that set out the financial monitoring position for period April to May 2020.

The report summarised the projected outturn position for the Council's general fund revenue account, based on actual and accrued data for this period. Officers were projecting an increase in net expenditure on the general fund revenue account of £9,158,977. The main reason for such a large increase was due to the impact of Covid-19.

Covid-19 had impacted on the Council in several ways including the inability to maintain income levels at those budgeted for in February 2020. The direct expenditure incurred by the Council in the current financial year stood at £514,913 (£250,769 in 2019-20) with support from the

Government of £1,954,748. The Government support received was to cover both the direct and indirect costs of the Covid-19 pandemic.

The indirect costs of Covid-19 were reflected in the services forecasting. As the pandemic continued estimates for losses in income and increased costs had been made with the best information available, which were subject to change as the year progressed.

The Council, at its meeting on 5 May 2020, approved an emergency budget to deal with the impact of Covid-19 should government support fall short of the final costs of the pandemic. Government had since announced further support for local authorities and figures would be updated to reflect this support once the detail had been received.

There had been a reduction of £351,107 in the statutory Minimum Revenue Provision (MRP) charge to the general fund to make provision for the repayment of past capital debt reflecting a re-profiling of capital schemes.

A surplus on the Housing Revenue Account would enable a projected transfer of £8.53 million to the new build reserve and £2.5 million to the reserve for future capital at year-end. The transfer was projected to be £97,384 higher than budgeted assumption and reflects modest variations in repair and maintenance expenditure and staffing costs.

Officers were making progress against a number of major capital projects on the approved programme as outlined in section 7 of the report. The Council was expected to spend £138.151 million on its capital schemes by the end of the financial year. The expenditure was higher than it had been for many years and demonstrated progress in delivering the Council's capital programme.

The Council's underlying need to borrow to finance the capital programme was expected to be £118.463 million by 31 March 2021, against an estimated position of £125.956 million, which was due to slippage on both the approved and provisional capital programme, as detailed in the report.

The Council held £118.8 million of investments and £238.9 million of external borrowing as at 31 May 2020, which included £192.8 million of HRA loans. Officers confirmed that the Council had complied with its Prudential indicators in the period, which had been set in February 2020 as part of the Council's Capital Strategy.

Comments from the Committee raised the following points:

- During the Covid-19 crisis, the Council had provided operator support to Freedom Leisure as Spectrum had to close all of its facilities with a resulting loss of all income. Spectrum was due to reopen on 1 August 2020, albeit with a very limited leisure provision due to the need to continue with social distancing measures. This would mean that the Council would need to continue providing operator support, provisionally until October 2020 and possibly into 2021. In addition, the Council had waived the management fee that it would normally receive from the contractor. The overall cost to the Council had been approximately £365,000 for each month that Spectrum had been closed.
- In relation to G Live, it was noted that the Council had continued to pay HQ Theatres its management fee and a small additional monthly payment of approximately £21,000 to help support them through the Covid crisis.
- In relation to the Yvonne Arnaud Theatre, the Council had continued to support the Trust with an annual revenue grant and had deferred payment of ground rent for the Theatre and Mill Studio.

Having considered the report, the Committee

RESOLVED: That the results of the Council's financial monitoring for the period April to May 2020 be noted.

Reason:

To allow the Committee to undertake its role in relation to scrutinising the Council's finances.

CGS18 REVIEW OF VARIOUS CORPORATE GOVERNANCE RELATED MATTERS

Arising from a number of concerns raised by councillors since the 2019 elections in relation to ethical standards, communications, and transparency, the Committee at its meeting in November 2019 established a cross-party task group, including a co-opted parish representative and an independent member of this Committee, with a wide remit to consider, review and make recommendations in respect of these matters.

The Committee considered a report on the review by the Task Group, including its recommendations, of:

- (a) the Councillors' Code of Conduct, including the policy on acceptance of gifts and hospitality by councillors;
- (b) the 15 Best Practice recommendations of the Committee on Standards in Public Life (CSPL) contained within its Report on *Local Government Ethical Standards* (January 2019); and
- (c) the Council's guidance on the use of social media by councillors;

In reviewing the Code, the Task Group considered those Best Practice Recommendations suggested by the CSPL (nos.1 to 5), which were directly relevant to codes of conduct, notably Recommendation 1:

"Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition".

In addition, following research by officers, the Task Group reviewed examples of other councils' codes of conduct particularly in respect of matters covered by other codes which were not currently included in Guildford's.

In considering the revised Code, the Task Group has tried to avoid being overly prescriptive. The CSPL in its report acknowledges that codes of conduct "cannot be written to cover every eventuality and attempts to do so may actually make codes less effective. They should therefore not be 'legalistic' in tone, or overly technical in style." However, the Task Group were also keen to encourage robust challenge from councillors provided always that, in so doing, they conduct themselves in a respectful manner.

Following consideration of proposed revisions to the Code of Conduct, which now include:

- a definition of "bullying" and "harassment" and examples of behaviour covered by such definitions,
- a new requirement for councillors to register and declare non-pecuniary interests, and
- revisions to the section of the Code dealing with Gifts and Hospitality

the Task Group agreed to consult all borough councillors and all parish councils on the proposed revisions. The consultation took place from 5 March to 31 May 2020. Summaries of the responses received from councillors and parish councils were appended to the report.

The Task Group met on 24 June 2020 to consider the responses and made further revisions to the Code. A copy of the revised draft Code of Conduct, as now proposed by the task group, was also appended to the report.

In reviewing the Social Media Guidance for Councillors, the Task Group had noted that the increasing prevalence of social media in our personal and professional lives, whilst hugely beneficial on the one hand by enabling instant engagement and communication (and re-communication) of information and opinion, could also, if used improperly by councillors, lead to Code of Conduct complaints.

As the Council first introduced guidance on the use of social media by councillors in 2014, the opportunity had been taken to review the guidance in light of changing social media trends and increasing usage.

The revised version of the guidance, as recommended by the Task Group was also appended to the report.

The Task Group had also considered each of the 15 Best Practice Recommendations proposed by the CSPL. This included an assessment of the extent to which the Council currently complied with the recommendations and commentary on actions the Council could take to ensure future compliance. As some of the Best Practice Recommendations were directly relevant to parish councils, the Task Group agreed to consult all parish councils in that regard as part of its consultation on the proposed revisions to the Code of Conduct.

Having considered the Task Group's recommendations, the Committee

RESOLVED:

- (1) That the Council, at its meeting on 6 October 2020, be requested to adopt the following recommendations:
 - (i) That the draft revised Councillors' Code of Conduct, as set out in Appendix 3 to the report submitted to the Committee, be adopted and implemented with immediate effect (CSPL Best Practice Recommendations 1 and 2 refer).
 - (ii) That parish councils in the borough be invited to consider adopting at the earliest opportunity the revised Code of Conduct set out in Appendix 3, with such modifications as they deem necessary.
 - (iii) That the Monitoring Officer be authorised to prepare, maintain and make available for inspection at the Council's offices and online a revised register of councillors' interests to comply with the requirements of the Localism Act 2011 and of the Council's revised code of conduct.
 - (iv) That the Council agrees that the code of conduct should normally be reviewed every four years during the year following the Borough Council Elections, with any such review involving formal consultation with parish councils within the borough (CSPL Best Practice Recommendation 3 refers).
 - (v) That the Council's Arrangements for Dealing with Allegations of Misconduct by Councillors ("the Arrangements") be amended as follows:
 - (a) paragraph 7.3 (g) iii) to read: "Whether the complaint appears to be *trivial*, malicious, vexatious, politically motivated or 'tit-for-tat'";
 - (b) paragraph 7.4 (6) to read: "The complaint appears to be *trivial*, malicious, vexatious, politically motivated or 'tit-for-tat'";
 - (c) paragraph 7.10 to read: "The decision of the Monitoring Officer, or Assessment Sub-Committee (as the case may be) shall be recorded in writing, and a decision notice will be sent to the Complainant and the Subject Member within 10 working days of the decision. *The Independent Person shall be given the option to review*

and comment on allegations which the Monitoring Officer (or Assessment Sub-Committee) is minded to dismiss as being without merit, vexatious, or trivial. The decision notice will summarise the allegation, give the decision of the Monitoring Officer or Assessment Sub-Committee, and the reasons for their decision. There is no right of appeal against the decision of the Monitoring Officer or Assessment Sub-Committee.”; and

- (d) Substitute the following in place of paragraph 31 of Appendix 3 to the Arrangements (Procedure and Powers of the Corporate Governance and Standards Committee and Hearings Sub-Committee): *“The Monitoring Officer will also arrange for a decision notice to be published as soon as possible on the Council’s website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied..”*

(CSPL Best Practice Recommendations 2, 8, and 9 refer).

- (vi) That no change be made to the Arrangements in respect of CSPL Best Practice Recommendation 6: that councils should publish a clear and straightforward public interest test against which allegations are filtered.
- (vii) That the Council notes that the role of the Monitoring Officer includes providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority, and agrees that the Monitoring Officer should be provided with adequate training, corporate support and resources to undertake this work (CSPL Best Practice Recommendation 12 refers).
- (2) That the Executive, at its meeting on 22 September 2020, be requested to adopt the following recommendations:
- (i) That the draft revised Social Media Guidance for Councillors, as set out in Appendix 4 to the report submitted to the Committee, be adopted.
- (ii) That the Council should report on separate bodies it sets up or which it owns (e.g. Guildford Borough Council Holdings Limited and North Downs Housing Limited) as part of the annual governance statement, and that such bodies should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place (CSPL Best Practice Recommendation 14 refers).
- (3) That the Council’s code of conduct be readily accessible to both councillors and the public in a more prominent position on the Council’s website and available for inspection at the Council offices (CSPL Best Practice Recommendation 4 refers).
- (4) That, notwithstanding the duty of all councillors to ensure that their register of interests (including gifts and hospitality) is kept up to date, the Democratic Services and Elections Manager be requested to prompt councillors to review their register of interests on a quarterly basis (CSPL Best Practice Recommendation 5 refers).
- (5) That the Committee notes that, by having a shared pool of seven Independent Persons jointly appointed by Guildford and six other Surrey councils for the four-year period 2019-23, the Council complies fully with CSPL Best Practice Recommendation 7: Local authorities should have access to at least two Independent Persons.
- (6) That the Monitoring Officer be requested to provide an indicative estimate of timescales for investigations and outcomes within the guidance on the Council’s website in respect of making a complaint under the Councillors’ Code of Conduct (CSPL Best Practice Recommendation 10 refers).

- (7) That the Committee agrees that CSPL Best Practice Recommendation 11: “Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances” is a matter for individual parish councils, but that there should be no impediment for a clerk to make a formal complaint about the conduct of a parish councillor.
- (8) That should there be the need for assistance to a Parish Council in dealing with a conduct issue on the part of the Clerk, the Monitoring Officer could assist in this regard by offering advice, support, and guidance.
- (9) That the Councillor Development Steering Group be requested to look at extending training opportunities to parish councils wherever possible and encouraging parish councillors’ attendance at any such opportunities in the future.
- (10) That the Committee notes that by having procedures already in place in the Council’s Arrangements to address any conflicts of interest that might arise when undertaking a standards investigation, the Council complies fully with CSPL Best Practice Recommendation 13.
- (11) That the Committee notes that by having frequent meetings with political group leaders where the Managing Director is able to discuss various matters including, where necessary, ethical standards issues, the Council complies fully with CSPL Best Practice Recommendation 15.

Reasons:

- To address various corporate governance and ethical standards related concerns raised by councillors.
- To address the 15 Best Practice Recommendations of the Committee on Standards in public Life in their report *Local Government Ethical Standards (January 2019)*

CGS19 WORK PROGRAMME

The Committee considered its updated 12 month rolling work programme and

RESOLVED: That the updated 12 month rolling work programme, as set out in Appendix 1 to the report submitted to the Committee, be approved, subject to

- (i) the decision to be taken in respect of the item listed as “the Council’s Constitution for consideration on 19 November 2020, to read:

“To review and update Procurement Procedure Rules and Financial Procedure Rules”

- (ii) the addition of the following items to the list of matters for consideration on 25 March 2021:

Subject	Details of decision to be taken
The Council's Constitution	To review and update Financial Procedure Rules
Planning Appeals	To monitor the Council’s performance at appeals against refusal of planning permission by the Planning Committee (both in respect of officer recommendations for refusal and Committee overturns) including, where appeals are upheld, details of costs awarded against the Council and other associated legal/external adviser costs.

Reason:

To allow the Committee to maintain and update its work programme.

The meeting finished at 8.15 pm

Signed

Chairman

Date