CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

25 March 2021

* 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

Councillors Tim Anderson, Joss Bigmore, Julia McShane, Maddy Redpath, and Paul Spooner were also in attendance.

CGS48 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Tim Wolfenden.

CGS49 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

CGS50 MINUTES

The minutes of the meeting held on 14 January 2021 were approved as a correct record.

The Committee noted that there were two specific issues raised at the last meeting, in respect of the Gender Pay Gap report and the Internal Audit Report on North Downs Housing (NDH), where requests for further information to be circulated to the Committee had been made, namely:

- comparative analysis in respect of job roles performed by both male and female employees
- details of how KPMG's recommendations in respect of NDH were to be implemented.

The Chairman asked that these issues be addressed promptly.

CGS51 FINAL AUDIT FINDINGS REPORT 2019-20

It was noted that, at its meeting on 26 November 2020, the Committee had received the statement of accounts for 2019-20 and the draft Audit Findings Report from the Council's external auditors, Grant Thornton. At the time it was anticipated that the auditors would still sign off the accounts by the November deadline. Unfortunately, the audit had taken much longer than expected, due partly to the issues with working remotely during the COVID19 pandemic and to 2019-20 being the first year that the Council had produced and required the audit of 'Group Accounts'.

The Committee was reminded that the Council had a subsidiary company, Guildford Borough Council Holdings Ltd, which in turn had a subsidiary company, North Downs Housing Ltd. The

Accounts of North Downs Housing Ltd were required to be consolidated into Guildford Borough Council Holdings Ltd and then the consolidated accounts of Guildford Borough Council Holdings Ltd were required to be consolidated, along with the Council's single entity accounts, into the Guildford Borough Council Group Accounts. This was the first year that the subsidiary companies had been of sufficient size that they required consolidation into the Group Accounts.

As part of the audit, a number of adjustments had been made to the accounts, which were detailed in the audit report appended to the Committee report. The audit report also included 12 further recommendations that had not been reported to the Committee in November. Details of the management responses to those recommendations were set out on the Supplementary Information Sheet circulated prior to the meeting.

The Committee noted that the audit was now complete, and a revised final version of the accounts had been presented to the auditors who were now ready to issue an unqualified audit opinion on the 2019-20 accounts.

During the debate the following points were made:

- In response to a query over the inclusion of Covid-19 as a material uncertainty in respect of property valuations in respect of the accounts for 2019-20, the Council's external auditor confirmed that the RICS updated guidance required valuers to assess there to be a material uncertainty for Covid, which had been applied across local authority and NHS audits

- In relation to 'Future Guildford' being a key factor in mitigating the £3.3 million budget gap identified in the medium term financial plan for the period to 2023-24, it was noted the data upon which that prediction had been based had been identified in the 2020-21 budget, which was updated as part of the 2021-22 budget approved by the Council on 10 February 2021

- In response to a query as to whether it was normal for discrepancies amounting to over £1m to be regarded as immaterial, the external auditor confirmed that they determine materiality in respect of audit risk, but the Council could take its own view on materiality. This Committee could agree either to accept the accounts as presented with no adjustments being made in respect of the items listed on page 55 of the auditor's report, or if the Committee felt that adjustments should be made in respect of those reported items, it could request that to happen. The officers had provided reasons for not adjusting the items, which had been accepted by the external auditor.

The Committee

RESOLVED:

(1) That the Audit Findings report for Guildford Borough Council for 2019-20, as detailed in Appendix 1 to the report submitted to the Committee, as amended by the updates on the Supplementary Information Sheet, be noted.

(2) That the letter of representation, as set out in Appendix 2 to the report, be approved and that the Chairman of the Committee be authorised to sign the letter on the Council's behalf.

Reason:
To allow the external auditor to issue her opinion on the 2019-20 accounts.

CGS52 CORPORATE PERFORMANCE MONITORING

The Committee considered the first report on Corporate Performance Monitoring, which would be submitted on a quarterly basis for review, as part of the Council's new performance monitoring framework.

The performance monitoring framework had been developed over several months with input from Service Leaders and Corporate Management Team to deliver a robust and effective system to monitor 63 key performance indicators across the Council. The new dedicated Strategy and Performance team had developed the current framework, accompanying process and reporting structure.

The indicators tracked progress in a variety of service areas as well as presenting some broad ‘health’ of the borough type statistics. The framework would bring increased accountability for delivery of services and strategic priorities. Over time, as more data is gathered, it would be possible to measure the effectiveness of decisions and associated activity and to identify where remedial action might be needed.

Through the Service Planning process, performance monitoring would be at the forefront of Service Leaders’ and Directors’ minds, which would give them an opportunity to celebrate successes and identify trends or issues.

The corporate performance indicators which would be monitored as part of the new framework had been gathered from across the Council’s service areas and give a breadth of data showing performance in key areas. The indicators had been grouped into four broad themes: Environment, Economy, Community, and Council.

Feedback from the Committee was sought on how the performance indicators were presented. The Committee had been invited to submit comments and questions regarding the report itself and specific performance indicators in advance of the meeting, details of which, together the officer response, were included in the Supplementary Information Sheet circulated prior to the meeting.

During the debate, the following points were made:

- Whether it would be worth considering a performance indicator in respect of prioritising domestic abuse victims in terms of housing. It was noted that officers already recorded domestic abuse cases that were reported within a different dataset gathered, but it would be possible to look at a possible additional performance indicator in that regard, particularly given the pressures that families had been under over the previous year.

- It was noted that the significant reduction in the percentage of Freedom of Information and Environmental Information Regulation requests responded to within statutory timeframes was correct and that the direction of travel indicator was showing an upward direction because the Council’s target response rate was greater than the actual performance. The use of the direction of travel indicators would be reviewed in future reports where the Council had a particular target to work to.

- It was noted in relation to the number of net new additional homes (COM16), that data was only available for the first quarter – with quarters 2 and 3 missing due to the migration of data to a new monitoring system. This performance indicator would provide very important information in the context of the Local Plan and the delivery of the target 562 new dwellings per year. It was also noted that the total number of households on the housing needs register had increased significantly.

The Committee, having reviewed the report

RESOLVED: That the contents of the report along with the Performance Monitoring Report for 2020-21 quarters 1-3, shown in Appendix 1 thereto, be noted.

Reasons:
To support our new corporate performance monitoring framework and enable the Committee to monitor the Council's performance against key indicators, as well as review key data relating to the 'health' of the borough.

CGS53 BURCHATTS FARM BARN FINAL AUDIT REPORT

At the request of the Chairman, Councillor Nigel Manning and in the interests of transparency, the Vice-Chairman took the chair for the consideration of this item on the basis that he had been a member of the Property Review Group when the Burchatts Farm Barn matter had been considered previously.

Prior to the Committee's consideration of this matter, Mr Gavin Morgan, on behalf of the Guildford Heritage Forum, asked the Committee chairman (Councillor Nigel Manning) the following question:

> *"Does the Chairman of the Corporate Governance and Standards Committee really think it is wise for the Council to reject large parts of the KPMG report?*
>
> *Section 3.6 tries reject the entire report by saying that the scope was to assess the disposal of community assets whereas Burchatts Farm Barn was an operational asset.*
>
> *I think the Council is missing the point. It closed a useful community building partly because it chose to categorise it in a particular way. Maybe the categorisation was wrong. Certainly, to the average voter it is blindingly obvious that Burchatts farm Barn was a valued community building. It is an 18th century farmhouse and barn converted for the public to hire. It is situated in a public park next to a model railway club and other community halls. The fact that the Council chose to categorise it in a particular way does not change what it was.*
>
> *Next the Council denies that its financial figures were misleading and rejects the second part of Recommendation 4 on page 9 of the KPMG report. This suggests the Council's 2017 claim that "the property is currently costing Council between £30-£70k per year" was an exaggeration. Although the Council rejects the claim its defence seems to prove that the KPMG report was correct. The Council now states that "net cost of running the asset to the Council was around £17,000 to £18,000" and not £30-£70 as stated in 2017. If it had used the lower figure back in 2017 the argument for closing the Burchatts Farm Barn would have been much weaker and possibly unsustainable.*
>
> *It appears to me that Lead Councillors for Asset Management were using misleading figures that suited an agenda and were not bothered about questioning what they received from officers. If the figures used to justify the decision to close Burchatts Farm Barn were misleading then the decision itself was potentially flawed.*
>
> *There is no excuse for making the financial case against heritage buildings worse than it really is and ignoring community value. And yet in discussions under the last Council about Wanborough Barn, West Lodge and Guildford Museum I heard complaints that costs were being inflated by including shared costs or once in a generation repair bills.*
>
> *What I see in this report from the Council is a defensive attitude that is resistant to criticism and change. Is that the impression this Council wants to give the community?*
>
> *What I want to see is a forward thinking Council eager to listen, tighten processes and continually improve. I want to see a culture where officers willingly explain the detail behind figures if asked by Councillors. I want a culture where Councillors are expected to challenge numbers that seem misleading without fear of censure, even when it is against the interests of their political party. At a time when the council is talking a lot about massive cuts we need to be confident that debates are based on accurate, clear*

and unbiased information rather than ballpark figures carefully selected to back up a predetermined point of view.

So I ask the Chairman, do you really think it is wise for the Council to reject large parts of the KPMG report?"

The chairman's reply to this question was as follows:

"I do not agree that large parts of the KPMG report are rejected. Clearly there are strong views and differences of opinion on both sides of the argument for and against the leasing of Burchatts Farm Barn. The Council is required to classify assets in its asset register in line with CIPFA guidance; it is also required by CIPFA guidance to charge support service costs, an apportionment of the Council's overheads and any repairs and maintenance against each service. The benefit of this accounting approach is that in making decisions as to whether to outsource a service, the decision is made based on Total Whole Life Cost of service provision rather than the annual marginal or direct costs, which may understate the true cost of asset ownership.

The Council is required by law to comply with CIPFA guidance as it is proper accounting practice. As set out in the report, the 'saving' to the Council is not just the net costs that have been reduced but also includes the additional income to the Council from leasing the asset. In addition, whilst there are some strong views as to how Burchatts Farm Barn should or should not have been classified, the fact is that Burchatts Barn does not hold any special status and is not a nominated Asset of Community value. As such there were no specific requirements around the leasing or disposal of the asset which the Council was required to follow apart from the requirement set out in the Council's Constitution and the Local Government Act 1972 that the Council seeks 'Best Consideration reasonably obtainable' on the disposal of assets.

Regardless of whether there is agreement or disagreement with the audit report, the Council has committed to implement the majority of the recommendations (which include the proposal to set out a community asset transfer policy) and these will be progressed. The Council is open to criticism where it considers that such criticism is valid.

I would reiterate that Burchatts Farm Barn was an Operational asset and not a Community asset and the correct disposal procedure applicable at that time was followed. The actions being progressed now include reviewing the classification of assets before any future disposals and consulting with residents' groups and users. These measures should protect community interests in future. As the report explains, local groups can nominate 'assets of community value', so that assets that are important to the community can be locally listed".

In his supplementary question, Mr Morgan asked the Councillor Manning whether he thought that it should be a fundamental principle that financial information used to justify decisions is honest, clear and transparent, and if so how the Council can ensure that it happens?

Councillor Manning responded by agreeing with Mr Morgan that it was fundamental that accurate financial information was provided to Councillors to enable them to make correct decisions. Councillors should challenge, and have challenged in the past, figures and information provided to them where they had concerns. Councillors relied on officers to provide the correct data upon which to make decisions. Councillor Manning stated that he understood that the losses of £17-18,000, were an average over a four-year period and not just a loss in one year, whereas the total loss was £30 to £70,000 over that period. Although great effort was made by officers to provide correct and up-to-date information, any mistakes made were human error. Councillor Manning felt that more careful collation of information needed to be undertaken to ensure continuity in formulating reports. He concluded by stating that Burchatts Farm Barn had been a loss making operational asset and a decision was taken by the Council to offer it for leasing in order to reverse the financial burden on the Council, and that decision went through all the proper reporting and advertising processes in place at that time.

The Committee considered the final audit report by KPMG into the review of the letting of Burchatts Farm Barn (BFB). The purpose of the review was to look at the design of controls and associated governance arrangements around the decision- making process, compliance with the controls and governance arrangements and then to identify any learning. The review had been commissioned by officers in January 2020 following a request from a councillor which was supported by the (then) Lead Councillor for Finance and Assets. The request had been made to KPMG in line with the co-sourced internal audit contract. The scope of the review, as set out in the initial terms of reference was set to focus on the internal processes rather than political decisions and allow officers to identify and learn from any gaps in processes and procedures.

Unfortunately, the review had been delayed due to the Covid 19 pandemic and officer resources being focussed on the Council's response to the pandemic.

The covering report to the Committee provided additional contextual information around the decision-making process undertaken in relation to BFB and how the process fitted with the decision-making framework set out in the Council's Constitution.

The decision to lease BFB for commercial purposes was initially a decision taken by the Corporate Management Team (CMT) in consultation with the Lead Councillor for Assets following consultation with the Property Resources Group (PRG) and ward councillors. However, confirmation of the decision was ultimately taken by full Council in February 2018 as part of the Council's budget process following submission and consideration of a savings bid for the 2018-19 budget. The Council was able to make a decision to lease the asset for commercial purposes as no specific designated status required an alternative approach. The Council followed an open market tender process and leased the property to the highest bidder, demonstrating that it complied with the need to obtain best consideration as required by s123 of the Local Government Act 1972.

The decision-making process resulting in the decision to lease and the choice of tenant followed the procedures set out in the Council's Constitution for commercial leasing of an asset under s123 of the 1972 Act. Had the decision to lease the asset for social, environmental, or economic wellbeing of the area been taken, then a different process would have been followed.

Concerns had been raised about the leasing process which resulted in the audit review. The main area of concern related to the initial decision to lease the asset for commercial purposes rather than for leasing the asset for social, environmental, and economic wellbeing purposes. In order to ascertain which of the Council's assets should be leased for the Social, Environmental, and Economic wellbeing purposes, officers had recommended that the Council should develop a community strategy and, as part of the strategy, to undertake an audit of the need for community facilities and the facilities that were available to meet that need in different areas of the borough to identify gaps in provision. This could then lead to the development of a community asset transfer policy, which was recommended by CIPFA in its most recent guidance on asset management in local government.

In accepting the findings and recommendations officers had acknowledged:

(1) That the Council's Asset management framework needed to be reviewed and updated and in doing so a more detailed disposal policy agreed formally by the Executive
(2) That a community strategy and community asset transfer policy should be developed and adopted by the Council
(3) That consultation with residents' groups and users of buildings should be undertaken where it is proposed that the Council's operational buildings are to be leased
(4) That the Council should better promote the ability for local groups to nominate 'Assets of Community Value' so that assets that were important to the community could be locally listed and the Council made aware of such assets

(5) That the provision of financial information in informal briefing notes to Councillors as part of working groups should be checked by the Council’s finance team
(6) That the Council’s new project and programme governance framework should be used to help document decisions around the review of asset utilisation and assessment of alternative options in order to help document leasing and disposal decisions in the future
(7) That a balanced scorecard approach to evaluating bids for property should be implemented to help record the decision-making process
(8) That minutes of working group meetings should be clear regarding recommended courses of action

During the debate, whilst there were concerns expressed about the process by which the audit review had been undertaken, most councillors supported the eight recommendations above.

Accordingly, the Committee

RESOLVED: That the final audit report on Burchatts Farm Barn and the content of the covering report to the Committee, be noted.

Reason:
To ensure good governance arrangements and internal control by undertaking an adequate level of audit coverage

CGS54 INTERNAL AUDIT PROGRESS REPORT AND HEAD OF INTERNAL AUDIT OPINION 2020-21

Councillor Manning resumed the chair.

The Committee considered the progress report from the Council’s internal audit manager (KPMG) for the period January to March 2021 which included the following

- Finalised reports on Income and Accounts Receivable, Expenditure and Accounts Payable, Performance Monitoring, Local Risk Management and 2019-20 Follow Up
- Agreed with Management to defer Capital Management and Key Learnings from COVID-19 reviews into 2021-22
- The 2020-21 Head of Internal Audit Opinion
- Draft 2021-22 internal audit plan
- Commenced scoping of the planned 2021-22 HRA Right to Buy Receipts review

The Head of Internal Audit Opinion for 2020-21 was based on the nine internal audits completed in the period, and it was noted during that period that the Council faced unprecedented challenges from COVID, with significant and varied operational pressures.

In addition, the Future Guildford transformation programme remained ongoing and, as part of that programme, the Council had further system implementations. Against this challenging backdrop of the pandemic alongside organisational transformation during 2020-21, KPMG had issued seven ‘partial assurance with improvements required’ reports, including in the areas of core financial control, risk management and data quality. They had also agreed six high priority recommendations during the year, details of which were set out in their report.

Notwithstanding the challenging backdrop and high priority recommendations, KPMG were pleased to note that Management had agreed actions in place with named owners and deadlines such that those matters could be addressed. In addition, during 2021-22, KPMG would revisit these key areas to provide independent assurance that actions were being completed and progress was being made.

The Committee therefore

RESOLVED: That the summary of audit reports for the period 1 January to 31 March 2021, and the recommendations arising from the governance reports and the Head of Internal Audit Opinion, be noted.

Reason:
To ensure good governance arrangements and internal control by undertaking an adequate level of audit coverage.

CGS55 INTERNAL AUDIT PLAN 2021-22

The Committee considered the Internal Audit Plan for 2021-22, as proposed by the Council's outsourced internal audit service provider, KPMG. The plan had proposed 14 reviews during the year, details of which were set out in Appendix 1 to the report.

The Public Sector Internal Audit Standards dictated that an internal audit plan should be based on four pillars, namely risk, governance, data, and finance. In undertaking the reviews, KPMG assured the Committee that they would be identifying and reporting on any instances of fraud.

The Chairman sought clarification from the Lead Councillor for Resources on the proposed investigation by KPMG into the reporting failures around the repayment of the Right to Buy receipts and the remit of that inquiry.

Having considered the report, the Committee

RESOLVED: That the annual internal audit plan for 2021-22, as set in Appendix 1 to the report submitted to the Committee be approved, subject to any minor adjustments that may be agreed to the remit of the proposed investigation regarding the repayment of Right to Buy receipts.

Reason:
To ensure good governance arrangements and internal control by undertaking an adequate level of audit coverage

CGS56 ANNUAL REPORT OF THE MONITORING OFFICER REGARDING MISCONDUCT ALLEGATIONS

The Committee received and noted the Monitoring Officer's annual report about decisions taken on standards allegations against borough and parish councillors for the 12-month period ending 31 December 2020.

The Committee noted that during this period, there had been 17 complaints in total, of which nine were regarding borough councillors and eight were in respect of parish councillors. By way of comparison, in 2019 the Committee noted that there had been eight complaints in total, of which seven were regarding borough councillors and one was in respect of a parish councillor.

Eight of the complaints had failed the initial jurisdiction test, two had proceeded to investigation. Seven were subject to no further action. There were no outstanding complaints at the time of the report had been written.

The Monitoring Officer reported that there was no common theme amongst the complaints.

By way of clarification, the Monitoring Officer explained the various stages of the procedure in the Council's arrangements for dealing with allegations of misconduct.

The following points were raised by the Committee in the debate:

- It was noted that a number of the complaints related to a failure to treat others with respect and bullying, but many of these pre-dated the adoption by the Council in October 2020, of the revised code of conduct, which clarified and defined bullying
- Concern over the length of time taken to determine complaints, although it was noted that, occasionally, the delays were due to inaction by the parties to the complaint for various reasons
- Concern over the lack of meaningful sanctions for errant councillors
- It was noted that very few complaints resulted in a finding of a breach of the code of conduct
- Those complaints that did not pass the initial jurisdiction test, perhaps because the complaint related to dissatisfaction with a decision taken which could not be a breach of the code, were still recorded and reported in this report

The Committee therefore

RESOLVED: That the cases referred to the Monitoring Officer under the Council's arrangements for dealing with allegations of misconduct for the period 1 January to 31 December 2020, be noted.

Reasons:

- To ensure members of the Committee and others to whom the report is circulated are kept up to date with standards complaints received and enable them to consider learning points for the future.
- To seek to promote and maintain high standards of conduct amongst Members.

CGS57 FINANCIAL MONITORING REPORT: APRIL 2020 TO JANUARY 2021.

The Committee considered the latest financial monitoring report, which summarised the projected outturn position for the Council's general fund revenue account, based on actual and accrued data for the period April 2020 to January 2021.

Officers were projecting an increase in net expenditure on the general fund revenue account of £13,828,046.

Covid-19 continued to impact the Council. The direct expenditure incurred by the Council in the current financial year currently stood at £3,208,895. The Government support would contribute to 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 report considered the expenditure and income forecasted up to 31 January 2021 and would therefore potentially move adversely as the measures progressed.

The Committee was reminded that the Council, at its meeting of 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. The Government had since announced further support for local authorities and figures would be updated to reflect this support once further detail had been received.

The increase in net expenditure on services, net of reserve transfers, was £13,828,046.

There was a reduction (£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. This had been offset by a reduction in interest income of £531,550 leaving a net movement on Interest and MRP of £180,443.

A surplus on the Housing Revenue Account would enable a projected transfer of £7.61 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 £822,692 lower than budgeted assumption due to slight fall in income forecast despite the fall in expenditure.

Progress against significant capital projects on the approved programme as outlined in section 7 of the report was underway. The Council expected to spend £41.934 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 £21.241 million by 31 March 2021, against an estimated position of £125.956 million. The lower underlying need to borrow was a result of slippage on both the approved and provisional capital programme as detailed in paragraphs 7.3 to 7.6 of the report.

The Council held £130 million of investments and £271 million of external borrowing on 31 January 2021, which included £192.5 million of HRA loans. Officers confirmed that the Council had complied with its Prudential indicators in the period, which had been in February 2020 as part of the Council's Capital Strategy.

During the debate, the Committee expressed concern over possible loss of external grant funding in the event of slippage on capital schemes. The Director of Strategic Services was requested to provide a report on how capital schemes were being managed to ensure grant funding was not lost, including the respective timelines for possible repayment of grant.

In response to a question as to whether the Council borrows money that it does not spend at the year-end, officers confirmed that the Council's approach was to only borrow externally when there was an actual need to do so.

The Committee, having noted the various corrections and clarifications on the Supplementary Information Sheet,

RESOLVED: That the results of the Council's financial monitoring for the period April 2020 to January 2021 be noted.

<u>Reason:</u>
To allow the Committee to undertake its role in relation to scrutinising the Council's finances.

CGS58 WORK PROGRAMME

The Committee considered its updated 12 month rolling work programme and noted a suggested amendment, which was set out on the Supplementary Information Sheet.

The Committee

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 the Equalities Scheme Action Plan item being deferred from the 22 April to the 17 June 2021 meeting.

<u>Reason</u>:
To allow the Committee to maintain and update its work programme.

The meeting finished at 9.57 pm

Signed ………………………………………………………… Date ……………………………………………

Chairman