

MIDDLESBROUGH COUNCIL	
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Report of:	Mayor and Chief Executive
Submitted to:	Council
Date:	5 July 2023
Title:	Corporate Governance Improvement Next Steps
Report for:	Information
Status:	Public
Strategic priority:	All
Key decision:	Not applicable
Why:	Not applicable
Urgent:	Not applicable
Why:	Not applicable

Executive summary	
<p>The purpose of this report is to reflect on progress to date and set out the planned next steps for the Council on its corporate governance improvement journey.</p> <p>The report outlines the background to the Council’s corporate governance journey to date, key events that have occurred in relation to corporate governance to ensure new members of this Council are fully aware of the background to this journey, the significance of the governance concerns that have been identified and the importance of effectively addressing them.</p> <p>The report sets out progress made to date, the latest views of the Council’s External Auditors on progress made and the planned next steps address the wider set of concerns identified.</p> <p>The report proposes the creation of a third phase of corporate governance improvement, based around the themes of:</p> <ul style="list-style-type: none"> • Financial Recovery and Resilience • Cultural Transformation • Social Care • Regeneration / Sustainability. 	

Purpose

1. The purpose of this report is to reflect on progress to date and set out the planned next steps for the Council on its corporate governance improvement journey.

Background and relevant information

2. During 2022/23 a series of reports were presented to full Council. They set out the Phase 1 and 2 approaches to the Council's corporate governance improvement plan. Further reports also provided updates on progress made in delivery of those plans to the previous administration of Councillors. Those plans were put in place, in order to address the corporate governance concerns identified by Ernst and Young (EY), the Council's External Auditor Annual Audit Results Report considered by Corporate Affairs and Audit Committee on 22 July 2022.

Background to the Corporate Governance improvement journey

3. The EY report set out a series of concerns, At the same meeting, the Council's three statutory officers (Chief Executive, Director of Legal and Governance Services and Director of Finance) submitted a report entitled 'Commencing a Corporate Governance Improvement Journey' that set out how the Council intended to respond to those concerns.
4. The report explained that the Chartered Institute of Public Finance and Accountancy (CIPFA) would be commissioned to provide a wider, independent review of the Council's culture and governance. This work was completed and reported to Council on 11 October 2022, whereby the findings were fully accepted, completing Phase 1 of the improvement journey.
5. CIPFA's report was accompanied by a joint report from Mayor Andy Preston and the then Chief Executive, setting out an ambitious improvement delivery plan to address concerns over four key themes, shaped into task and finish working groups with a view to demonstrating progress over 90 days (Phase 2):
 - Roles and responsibilities
 - Training and development
 - The Constitution
 - Culture and communications.
6. Each task and finish working group was comprised of a range of officers and members and overseen by an independently chaired board of officers and members with full political representation, referred to as the Corporate Governance Improvement Board, which sat monthly for the duration of the 90-day plan.

Progress to date

7. The approach taken by the Corporate Governance Improvement Board and supporting working groups was to develop delivery plans to support the key actions identified by CIPFA. During this phase, work focused on improvements and revisions to processes,

policies and documentation providing a strong foundation to facilitate ongoing, positive progress and cultural change.

8. Additionally, within Phase 2, substantial focus was given to addressing concerns in relation to officer and member and member and member relations. Appendix 1 sets out in detail the achievements made during this period, which include:
 - An initial refresh of the Member and Officer protocol which has since been further developed to include more examples of positive behaviours and expectations. The refreshed document will be included in the revised Constitution, which will be brought forward for consideration by full Council in September 2023.
 - Baseline staff and member surveys were undertaken and will be further built upon, as part of a new People Strategy currently in development.
 - Agreed an approach to the development of communications protocol for officers and members which will be considered as part of Phase 3.
 - Creation of an informal meeting space for members in the Town Hall and creation of member parking spaces in Fountain Court, to improve access to staff and encourage opportunities for engaging outside of formal meetings.
 - Alignment of Executive Member portfolios with officer and scrutiny panel structures.
 - A refreshed approach to Member inductions, is currently in delivery.
9. The elements of the Phase 2 work to be carried forward into the next stage of corporate governance improvement, have been agreed, as follows:
 - Council approval of the revised approach to the Council's constitution, to ensure the document is cohesive, user-accessible, and reflective of the outputs of the task and finish working groups i.e., codes of conduct, communication plans and protocols.
 - Development and implementation of a People Strategy for both officers and Members, setting out the Council vision and how that will be realised, encompassing a number of training and development activities commenced during 2022/23.
 - Improvements to the approach for Member enquiries and service requests.
 - A refreshed approach to the development of the Council's Strategic Plan.

External Audit

10. The External Auditor (EY) has recently published its Annual Report that was considered by the Corporate Affairs and Audit Committee on 29 June and is appended to this report for information at Appendix 3. This includes:
 - Confirmation of an unqualified opinion on the Council's Financial Statements and those of the Teesside Pension Fund for the financial year 2020/21.
 - A summary of views on the progress the Council has made in addressing the recommendations it made in relation to the audit of the 2020/21 Statement of Accounts
 - Within 'Other Reporting Issues', the Auditor summarised:
 - i. Confirmation that he is satisfied that the Annual Governance Statement for 2020/21 is consistent with EY's understanding of the Council
 - ii. that within the December 2022 report to the Corporate Affairs and Audit Committee, the External Auditor had noted that whilst the Council had taken

positive action to respond to the July 2022 recommendations, there was concern over the ability to deliver on these actions.

- iii. That EY will continue to monitor progress against the Improvement Plan as part of the VFM work for 2021/22 and future periods. In the event that the Council does not make satisfactory progress against the Improvement Plan, or the actions taken are not having the necessary effect on the Council's culture, EY will reconsider whether statutory recommendations or other auditor reporting powers are appropriate.
- iv. EY recommends that the Council reviews and improves its arrangements for recording and accounting for infrastructure assets; compliance with procurement policies and procedures; arrangements for public inspection of the accounts; management and recording of leasing information (IFRS16).

11. This Annual Report presented to Corporate Affairs and Audit Committee on 29 June 2023 is appended to this report for information, at Appendix 3.

12. As well as focussing on the 2020/21 financial year, EY's Annual Report also includes a forward look at the Council's challenges beyond the 2020/21 financial year which will form part of their future Value for Money arrangements work covering the financial years 2021/22 and 2022/23. It covers:

- The Council's ongoing challenge to overcome poor senior officer and member relations and the resultant issuing of a **Best Value Notice** by the Department for Levelling-Up, Housing and Communities (DLUHC) in January 2023.
- The challenge of delivering the **Children's Services Improvement Plan** and exercising effective budgetary control in light of the Directorate's significant overspends in 2021/22 and 2022/23; the need to ensure delivery of approved savings and the potential need to take further cost saving measures to ensure the **financial sustainability** of the Council given its low level of reserves during 2023/24.
- **Middlesbrough Development Company** – to ensure that the Council manages the demise of the subsidiary including the of assets and settlement transfer of Council loans to the subsidiary.
- Identification of examples of lack of **adherence to Council policies and procedures**, in particular relating to compliance with procurement procedures.
- Concerns about the **stability of senior management** due to the turnover of s151 Officers, the change in Chief Executive and that these posts, plus the Executive Director of Children's Services and Director of Children's Care are all interim appointments whose current terms expire within 12 months. This lack of stability increases the risk of the Council not being able to deliver its improvement plans.
- The need to carefully manage the Increased risk exposure to further **commercial income streams** associated with the acquisition of the Cleveland Shopping Centre, Former House of Fraser, Captain Cook Square to expand the commercial portfolio.
- Risks to the Council's **financial stability** arising from continued Inflationary pressures due to the UK economic environment and associated impact upon demand led services, income streams and the need for additional support to individuals.

13. EY has confirmed that it will shortly publish an updated Value for Money Governance report to reflect on progress made in delivering against the Improvement Plan between its last report in December 2022 and 31 March 2023
14. While the Council has made progress in addressing issues identified in July 2022 and the subsequent CIPFA report, the pace of progress has been impacted by senior management turnover and local elections. It is expected that this reduced pace of progress, along with identification of further governance concerns will be reflected in that judgement.

Best Value Notice

15. On 24 January 2023, the Department for Levelling Up, Housing and Communities (DLUHC) issued a Best Value Notice which was formal notification that DLUHC has concerns about the Council in relation to:
 - Serious concerns highlighted by the external auditor, published in July 2022, around governance arrangements.
 - Cultural and governance issues further investigated in the CIPFA review published in September 2022.
16. The notice states that DLUHC expects:
 - 'You to continue in your efforts to deliver against your agreed action plan, accepted at full Council on 30 November 2022, at pace and meet the set milestones, also setting out clearly how success will be measured.
 - That you will continue in your efforts to implement cultural change, particularly in relation to the relationships between officers and members, and that this will be an important focus of the Improvement Board
 - To complement existing engagement between the Authority and the Department, we expect that contact at working level should occur on a quarterly basis initially, recognising that this may change according to need over time. We expect any requests for information to be fully and promptly met. The Department will also look to the Governance Improvement Board for assurance on your Authority's plan and its delivery as part of our engagement on this matter.'
17. Since that time, the Council has held fortnightly officer level engagement with DLUHC officials to provide DLUHC with assurance around the Council's progress against both the original scope of improvement activity as well as plans to address wider improvement considerations that have been developed during 2022/23.
18. At this stage, the Government's intervention is in the form of support, however if the Council fails to effectively respond to Government's concerns and provide assurance around its progress, further interventions could be taken. In other Councils this has taken the form of advisory or statutory Improvement and Assurance Boards through to intervention by Government appointed Commissioners. The latter involves the removal of powers relating to financial management and other governance areas of concern from Councillors and enforced changes to senior management structures. It is in the best interests of the town for the Council's elected members to retain decision making powers, rather than them being transferred to unelected officials. Therefore, ensuring

that the Council can respond at pace to address its governance and financial challenges must be a key priority for both officers and Members.

Wider improvement considerations

19. This section sets out the background to those issues for members understanding. A revised Corporate Governance Improvement plan will also reflect these issues and will form the basis for provision of further assurance to the Council’s External Auditors and DLUHC.

Further changes in political and officer leadership

20. Since the conclusion of the Phase 2 90-day plan, the Council has seen significant changes its composition including in the Mayor, Chief Executive and Section 151 officer roles, as well as the political make-up of the wider Council chamber.

Independent assessment of financial resilience

21. In early 2023, further support was commissioned by the Council from CIPFA to independently assess the Council’s financial resilience, in particular the affordability of its financial plans, adequacy of its levels of reserves and compliance with good practice in financial management.

22. The report findings identified that the financial resilience of the organisation was fragile, with reduced reserves and a 2023/24 budget that was set on the premise that significant savings would be delivered during 2023/24. CIPFA also highlighted that the Council was adopting an annual budget process – balancing only 2023/24, rather than establishing a balanced Medium Term Financial Strategy over three-to-five-years which is the normal standard of good practice in local government.

23. The Council holds critically low levels of usable revenue reserves and faces significant financial risks due to ongoing high inflation and the associated impacts upon citizens, businesses and the demand for and cost of services. It is essential that the Council strengthens its grip upon financial management arrangements during 2023/24 and delivers within the approved revenue budget. This will need more regular and proactive management of budgets, a focus upon ensuring the delivery of approved savings and prompt management action to address and control emerging financial pressures. This is a critical focus area for the interim Chief Executive, Interim Director of Finance (s151 Officer), the Mayor and Executive Member for Finance and Governance.

24. The 2023/24 approved budget of £126.354m is predicated on the delivery of £9.4m of savings including £3.6m within Children’s Care. The Children’s Care Directorate experienced significant overspends in 2021/22 and 2022/23, resulting in depleting revenue reserves. The Directorate budget was re-based from £39.744m to £54.649m for 2023/24 requiring equivalent savings in other service areas. It is essential that all directorates deliver within their approved budget for 2023/24 to ensure that the Council can start to rebuild its financial resilience by maintaining and then rebuilding reserves in 2024 and over the medium term. Failure to maintain a balanced revenue budget position, could result in the s151 Officer being required to issue a statutory s114 notice. This would involve Council approving plans to cease all but essential expenditure to

meet statutory duties and implement a Council wide financial recovery plan. This would also be likely to result in an escalation of intervention by DLUHC.

- 25. It should be noted that approximately 80% of the Council's budget is now dedicated to Adult and Children's social care support. As such, a considerable focus is required in relation to all spending decisions to ensure the Council spends wisely, to achieve good outcomes for all within severely limited financial resources.
- 26. The Council's commercial risk exposure has increased following the acquisition of several commercial properties. In addition, the continued challenging economic climate may reduce income generated from fees and charges if demand for services is adversely impacted. It will be essential to monitor income budgets closely and undertake a review of the Council's income policy and its fees and charges levels during the year to help to support the budget position.

A fundamental review of the Council's asset base will be necessary in order to identify opportunities to rationalise all asset categories. This will serve to reduce operational revenue costs and provide opportunities for realising capital receipts from the sale of assets. Those receipts can be used for one of three purposes: investment in capital expenditure to realise ongoing revenue efficiency savings; repayment of borrowing to reduce the revenue costs of borrowing; apply to fund service transformation expenditure in accordance with the Flexible Use of Capital Receipts Strategy. These measures will serve to strengthen the financial resilience of the Council over the medium term.

Ongoing Government conversations

- 27. Alongside this, ongoing conversations between the Department for Levelling Up, Housing and Communities (DLUHC), outgoing and current Mayors and statutory officers, have focussed on the delivery of the improvement plan as well as wider conversations about the health of the organisation, and the steps required to provide DLUHC with assurance that the corporate governance of the Council is robust across all disciplines that comprise the corporate governance framework.

Requirement to further improve Children's Services

- 28. While the Council has made gradual improvements to practice within Children's Services since it was assessed as being inadequate across all measures in 2019, it is still judged as requiring improvement to be good across the five judgement areas used by Office for Standards in Education, Children's Services and Skills (Ofsted) in its May 2023 report:

Judgement	Grade
The impact of leaders on social work practice with children and families	Requires improvement to be good
The experiences and progress of children who need help and protection	Requires improvement to be good
The experiences and progress of children in care	Requires improvement to be good
The experiences and progress of care leavers	Requires improvement to be good

Overall effectiveness	Requires improvement to be good
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29. The Council is committed to continuing this improvement journey to achieve 'good' and will continue to maintain a governance focus on Children's Social Care services practice.

Next steps

30. To ensure a coherent, cohesive approach to the next stage of corporate governance improvement (phase 3), the focus will be reshaped around the following four key themes:

- Financial Recovery and Resilience
- Cultural Transformation
- Social Care
- Regeneration / Sustainability.

31. The attached corporate governance framework sets out the activities, to be delivered by each theme at Appendix 2.

32. One of the successes in Phase 2 of this improvement journey was the input the Council was able to receive from external advisors and experts who were able to provide guidance and capacity to deliver. This will be maintained by the creation of an Improvement Advisory Panel, comprised of individuals with significant experience of working in the key themes identified in this report that will be addressed in a refreshed Corporate Governance Improvement Plan.

33. This Improvement Advisory Panel (the Panel) will be comprised of:

- An individual with local authority Chief Executive role experience, to act as Chair
- An experienced former Chief Financial Officer who can support the organisation's financial recovery work
- A social care specialist who can continue to offer the external validation role that was so important to the Council during its Children's Safeguarding improvement journey which is ongoing
- A regeneration specialist who can support the Council as it looks to put itself on a more sustainable footing, as well as navigating through the governance challenges that will arise from the establishment of the Middlesbrough Development Corporation to ensure that the best outcomes for Middlesbrough are achieved.

34. The Panel, established by the Mayor and Chief Executive, will support efforts to put in place the necessary measures that will address the concerns of its External Auditors and DLUHC and therefore satisfy those bodies that more formal intervention is not required in the Council. The work of the Panel will be shared with Members, Officers, the External Auditors and DLUHC through existing communication channels to ensure they are provided with evidence of its effectiveness.

35. The purpose of the Panel will be to:

- Act as a critical friend, providing the Council with experience, oversight, support and challenge on its plans
- Focus on how the Council assures itself that 'best value' is being achieved across all activities
- Support the Council to address the fundamental challenges it has around culture and governance
- Support the Council to ensure it is in a financially sustainable position. to receive updates on progress and provide robust and healthy challenge, over a 12-month period.

36. Delivery of this Panel will come at a cost to the authority, estimated costs are set out within the financial implications section of this report and resourcing of this will be considered at a meeting of Executive in July 2022.

37. An existing commitment within the Council's 2021/22 Annual Governance Statement specifies that sector peers are brought in at an appropriate point in time to provide further assurance around progress. This will be programmed in to align with the end of the 12-month period and therefore scheduled from the summer of 2024.

What decision(s) are being recommended?

38. That Council notes the progress made to date and endorses the proposed focus of the next phase of the Council's governance improvement journey.

Rationale for the recommended decision(s)

39. The Corporate Governance Improvement Plan ensures an inclusive approach to addressing the issues identified in the CIPFA diagnostic work and EY's Value for Money judgement as well as the wider issues set out in this report.

Other potential decision(s) and why these have not been recommended

40. Not applicable.

Impact(s) of the recommended decision(s)

Legal

41. There are no direct legal implications as a result of this report.

Strategic priorities and risks

42. This report and next steps demonstrate a continued positive impact on the strategic risk of 'failure to achieve good governance'.

Human Rights, Equality and Data Protection

43. Not applicable.

Financial

44. The Council has identified that there is a contingency fund of £1.3m available. Following this report, a further report will be developed for Executive's consideration that will set out in detail proposals for a draw down from this budget in order to resource the improvement work included within this report. This will include:

- Additional resource in corporate support services to address weaknesses in governance
- Additional resources in corporate support services to support delivery of the corporate governance improvement plan
- Costs associated with the implementation and maintenance of the Panel for 12 months.

Actions to be taken to implement the recommended decision(s)

The report is for information only. To note however, the following actions are planned:

Action	Responsible Officer	Deadline
Agree the resourcing needed to support delivery of this plan	Executive	31 July 2023
Officer delegated decision to appoint Board members	Chief Executive	31 July 2023
Development of detailed Phase 3 work programme (deliverables, risks, success measures, etc.)	Chief Executive	31 July 2023
Report on progress of Phase 3 work programme and Board views to Council meetings for 12 month period	Chief Executive	31 July 2024
LGA peer challenge arranged	Chief Executive	31 July 2024

Appendices

1	Middlesbrough Council Corporate Governance Improvement Board action plan (Phase 2)
2	Corporate governance improvement framework (Phase 3)
3	EY Auditor's Annual Report Year Ended 31 March 2021

Background papers

Body	Report title	Date
Corporate Affairs and Audit Committee	Lessons Learnt: Best Value Inspection of Liverpool City Council	5 Aug 2021
Corporate Affairs and Audit Committee	Boho X: Draft findings from internal audit and proposed management response	6 Apr 2022

Corporate Affairs and Audit Committee	Audit Results Report 2020/21	22 Jul 2022
Corporate Affairs and Audit Committee	Statement of Accounts 2020/21	22 Jul 2022
Corporate Affairs and Audit Committee	Lessons learned: Best Value and external assurance within other councils.	22 Jul 2022
Corporate Affairs and Audit Committee	Commencing a corporate governance improvement journey	22 Jul 2022
Council	Corporate Governance Improvement Journey: CIPFA findings and next steps	19 Oct 2022
Council	Corporate Governance Improvement Plan and progress update	30 Nov 2022
Corporate Affairs and Audit Committee	External Audit: Value for Money Governance Update	5 Dec 2022
Council	Corporate Governance Improvement Plan and progress update	18 Jan 2023
Corporate Affairs and Audit Committee	Statement of Accounts 2020/2021	28 April 2023
Corporate Affairs and Audit Committee	Auditor's Annual Report – Year Ended 31 March 2021	29 June 2023

Contact: Mayor, Chris Cooke and Chief Executive, Clive Heaphy

Appendix 1: Middlesbrough Council Corporate Governance Improvement Board Phase 2 Action Plan

	Action	Progress RAG	Continued route
Roles and Responsibilities	Consider how a line can be drawn under past issues from a Member perspective e.g., revised Member Code of Conduct		
	Review and update Member / Officer protocol		Constitution
	Review existing process for Member enquiries, considering alternatives		Gov Imp Phase 3
	Develop plan to improve engagement between Members and officers		Gov Imp Phase 3
	Amend political group terms of reference, to reflect revised code of conduct and expected behaviours, protocols, and principles		
	Develop a communications protocol for Members and Officers		Gov Imp Phase 3
Training and Development	Review current Member training provision and consider any changes / updates required:		
	Consider what training should be delivered to Officers in respect of working with Members and understanding of Member/Officer protocol		Gov Imp Phase 3
	Develop learning materials in relation to the Constitution		Gov Imp Phase 3
	Develop training around Member and Officer codes of conduct		Gov Imp Phase 3
	Develop training for candidates before elections to set expectations for the role and ensure candidates are well prepared		
	Consider further opportunities to develop Executive Member and LMT use of Insights		Gov Imp Phase 3
	Consider extending use of Insights to committee chairs		
	Deliver LGA-facilitated development sessions for Executive Members and LMT		
	Develop framework for reviewing and updating Constitution, including looking at best practice examples and planning how and when a new Constitution will be developed		Constitution

The Constitution	Develop Constitution user guide		Constitution
	Deliver training/knowledge sessions to explain new Constitution to Members and Officers		Gov Imp Phase 3
	Review Scrutiny Panel arrangements and map to structure or priorities to ensure alignment across LMT, Scrutiny, Executive portfolios and strategic priorities		Constitution
	Look at options to address concerns that Council's Standards regime is 'toothless', and consider if providing greater powers to Standards Committee is appropriate or possible in Law		
Culture and Communications	Continue to review working from home arrangements for LMT and other key Officers		
	Re-establish an informal meeting space for Councillors that meets their needs		
	Deliver communications programme / workshop for Members to outline the impact of austerity on Council finances		
	Conduct a staff survey to baseline current mood in relation to governance concerns and repeat this survey regularly as needed and establish feedback loops		
	Conduct a complementary survey of Members to baseline their views and repeat to assess progress and report to the Board		
	Develop vision for new culture		
	Review and update social media policy		Gov Imp Phase 3
	Review the current access to information rules put in place to support members without the need to resort to FOI and consider ways in which the culture around information can be improved		Gov Imp Phase 3
	Set expectations of behaviour / etiquette in meetings		Gov Imp Phase 3
	Create opportunities for Members to visit and experience Council services e.g. open days for Members, neighbouring LA's, etc.		Gov Imp Phase 3
Create internal search directory to support Officers and Members to find the right person to speak with		Member Development	
Embed accessibility and communications of information (e.g. FWP, modern.gov, reports) for Members			

General actions	Establish and diarise regular meetings of Mayor and Group Leaders		
	Establish regular meetings of Mayor / Chief Executive		
	Schedule for ward walkarounds to be reinstated, enabling two-way feedback / updates to be developed		
	Schedule quarterly Executive and Leadership Team strategic away days		
	Develop process to ensure Member questions to Executive Members are published in full and in advance, of full Council meetings		Constitution
	Refresh approach to Strategic Plan to reflect strategic priorities of Council and town, providing a framework for measuring the Council's contribution to KPIs, and which reflect political priorities		
	Ensure move to new Council headquarters, enables shared working space for Executive Members and Leadership Team		

Key:	
	Complete
	On-track
	Some slippage
	Off-track

Appendix 2: Corporate governance improvement framework, Phase 3

Corporate Governance Improvement Journey

Financial Recovery and Resilience	Cultural Transformation	Social Care	Regeneration / Sustainability
<ul style="list-style-type: none"> • Development of an MTFP / 4yr strategy • Implementation of savings delivery and assurance processes • Improve governance, spending controls and monitoring • Ensure effective financial management across organisation 	<ul style="list-style-type: none"> • Create stable and sustainable leadership • Re-engage all with corporate values and Nolan Principles • Implementation of People Strategy to drive cultural transformation across the organisation • Staff and Member Development Programme 	<ul style="list-style-type: none"> • Balance of reablement and residential care • Development of a Homelessness Strategy • Post-Inspection continued Children's Improvement Journey • Children's Financial Improvement 	<ul style="list-style-type: none"> • Commercial risk appetite / exposure • Strengthening compliance with governance processes • Skills agenda • Town Centre and surrounding area regeneration Masterplan (aligning with MDC plan) • Refresh the Local Plan