

## EXECUTIVE MEMBER REPORT TO COUNCIL

### EXECUTIVE MEMBER: FINANCE & GOVERNANCE – COUNCILLOR NICKY WALKER

**DATE OF MEETING: 18 September 2023**

The purpose of this report is to provide an update to members on areas of activity within my portfolio including performance against strategic priorities.

#### STRATEGIC PRIORITIES

**Strategic Priority:** *We will ensure that we place communities at the heart of what we do, continue to deliver value for money and enhance the reputation of Middlesbrough.*

#### Update:

1. My report for today focuses upon the Council's governance arrangements and financial position which are also addressed in the external auditor's Value for Money Update and Issuance of 11 statutory recommendations which are considered under a separate agenda item at the meeting today which address the following issues:
  - Culture and Governance
  - Constitution review, training and compliance
  - The Council's strained financial position and actions required to restore financial sustainability.

#### Culture and Governance

2. A great deal of effort has gone in to provide support to members in the form of briefings and training. This will enable us to understand the significant challenges that face everyone in the Council and contribute to our governance improvement journey. It has also furnished an opportunity for new and longer serving members to meet and work together. I would like to thank officers for all their work in compiling and delivering the programme and all those members who have taken the time to attend and contribute to the collaborative nature of these sessions.
3. A new Member Development Programme designed to ensure both returning and newly elected Members have the appropriate knowledge and skills to enable them to carry out their roles effectively, was launched in May with the delivery of the following Induction briefings and workshops:
  - i. Formal Administration into Office - Democratic Services overview, Member Facilities, Support and Allowances, completion of induction packs

- ii. Welcome and Introduction to the Council - Principles and Values, Council Services and Who's Who, Strategic Plan, Priorities and Finances, Councillors Basic Toolkit
  - iii. Information, Data Protection and Decision Making
  - iv. Constitution and Conduct
4. In addition to the above lead officers have also delivered several training sessions for members appointed to the range of Council Committee roles and on Social Media skills. Further induction sessions are planned on Executive Member Responsibilities, Council Finances, Directorate Briefings and Culture, Equalities, Diversity, and Inclusion.
  5. The wider development programme offers blended learning with a dedicated members page to access information and resources, a range of skills-based workshops delivered by internal and external experts, access to the Corporate Development Programme, and the opportunity to attend LGA training and events.
  6. Alongside the new development offer officers have created a new Member Development Strategy to ensure that learning and development is appropriately focused, well delivered and resources are used effectively to achieve maximum benefit, throughout members time in office. This will be shared with the Constitution and Members Development Committee for feedback and approval before sharing with full council.

#### Constitution review, training and compliance

7. A refreshed and updated constitution, which includes revised Financial and Contract Procedure Rules are included on the Council agenda today.
8. All members had the opportunity to attend a briefing on the constitution on 07 September 2023

#### Financial position and actions required to restore financial sustainability.

#### **Background to setting of the budget for 2023/24**

9. It may assist some members when considering what follows later in this report, to further understand the circumstances under which the balanced budget was set in February 2023 and the financial position at that time. This position is referred to by our external auditors in their Value For Money Update and Issuance of Recommendations which is to be considered under a separate agenda item at the meeting today.
10. Local authorities are required by law to set a balanced budget, and indeed a balanced budget was set by Middlesbrough Council on 27 February 2023.
11. However, prior to the setting of that balanced budget, in January 2023 it had been considered necessary to commission a review by an independent body CIPFA (Chartered Institute for Public Finance and Accountancy) of the Council's financial position, budget

affordability, and financial outlook. This review concluded that CIPFA expected that the Council would produce a balanced budget for 2023/24, but that:

12. *"It is not possible for CIPFA to have confidence in the delivery against the savings targets identified for Childrens Services"*
13. There were also concerns raised about the levels of reserves with the review stating:
14. *"The Council needs to be very clear that there is no or very limited scope for central funding of overspends" and "Failure to deliver the planned savings will place the Council at the risk of having to issue a Section 114 Notice with expenditure likely to exceed financial resources available to the Council"*.
15. These findings were incorporated by the then Chief Finance Officer (section 151 Officer) in her statutory report to Council on the robustness of budget estimates and adequacy of reserves of 27 February 2023. As I stated in my report to Council of July 2023, the former Chief Finance Officer advised the following:
16. *'Reserves are adequate insofar as the minimum level of general balance is set at £12m, based on risk assessment; there are currently no plans for its use being the fund of last resort. However, there is little resilience in earmarked reserves, and these are at a critical level. The lack of substantial earmarked reserves means the overall reserves position, whilst adequate, is fragile and may require a reliance on cost control or the delivery of additional savings in the event of any unplanned costs'.*
17. The full report of Chief Finance Officer of February 2023 was circulated to all members, at my request, on 22 August 2023

## **Reserves position**

18. It is worth highlighting again that usable earmarked reserves had reduced by 75% from a level of £16 million at 31 March 2019, to £4 million at 31 March 2023. With the use of part of these reserves restricted for specific purposes, this left only £2.8 million in unrestricted usable earmarked reserves.
19. This result was that usable revenue reserves position was, and remains, critically low, at £14.8m. This comprised of the General Fund Reserve of £12 million and the Council's unrestricted usable earmarked reserves of £2.8 million at 31 March 2023. The General Fund Reserve is the reserve of last resort to meet unplanned events that are largely outside the Council's control. Reserves should not be relied upon to fund day to day operational expenditure in delivering services. They can only be used once and given the forecast overspend in the current year, are at risk of being exhausted within this financial year, which could lead to the s151 Officer issuing a s114 Notice. This has resulted in robust measures being put into place early this year to take measures to address and recover from this fragile financial situation.

## **Enhanced budget management and control**

20. Enhanced budget management and control measures, supported by the Executive, were introduced by the current interim Director of Finance (s151 Officer) during Quarter One. These included increasing the frequency of budget monitoring from quarterly to monthly with Leadership and Management Team (LMT) conducting monthly budget challenge sessions chaired by the Interim Chief Executive.
21. Executive involvement in budget challenge has been reintroduced with quarterly budget challenge and review sessions for each Directorate chaired by me as Executive Member for Finance and Governance, and attended by Executive Members and officers for relevant Directorates.
22. There is a requirement for adverse variances to be addressed through the development of Financial Recovery Plans by Directors, in consultation with their relevant Executive Member, and delivery to be monitored through the budget challenge framework.
23. The first of the quarterly budget challenge sessions took place over seven sessions in w/c 24 July 2023, and the outcomes were reported in the Revenue and Capital Budget-Forecast Outturn position and Quarter One 2023/24 considered by the Executive on 23 August 2023. The key points of this report were included in all Member briefing of 22 August.

## **Quarter One position and Forecast Outturn**

24. There were indications of substantial overspends as early as the monthly budget monitoring sessions for May 2023. The forecast 2023/24 net revenue budget outturn as at Quarter One is £137.917million against an approved budget of £126.354million, gives a forecast overspend of £11.563million, unless significant and urgent management actions are taken to control spending. This figure represents 9.2% of the net revenue budget. This is the second year running that there has been significant overspends on the annual budget, with £9 million projected at Quarter One last year, 2022/23.
25. LMT in consultation with their relevant Executive Members, have been working to develop Financial Recovery Plans for each Directorate that is forecasting an overspend at year end and initial Financial Recovery Plans totalling £2.5million have been identified and were outlined in the report. This would potentially reduce the overspend to just over £9million, and of course further work is continuing with a view to fully mitigate the forecast overspend and control within the budget approved by Council in February 2023.
26. Furthermore, the Interim Director of Finance implemented spending restrictions with effect from 1 July 2023 until further notice, including restrictions on filling permanent vacancies, the use of interim and agency staff, the purchase of goods, works and services, and Chief Officers within LMT restricting the number of officers able to authorise expenditure within their Directorates.

27. Key areas of pressure identified at Quarter 1 are as follows:

- Children's Care - Increased external residential placement numbers / high cost placements £3.8m
- Adult Social Care - Purchased care growth £3m
- Education & Partnerships – Integrated Transport Unit home to school transport £1.4m
- Environment & Community Services – increased Waste Disposal costs £0.7m
- Environment & Community Services – Warden Service £0.4m
- Adult Social Care / Finance – increased homelessness costs £0.6m
- Finance – increasing costs of external audit fees £0.2m
- Cross Council - Anticipated shortfall on 23/24 pay award £1.4m (pay award not agreed)

28. While many of these pressures are similar to those being reported by other authorities, the critically low levels of reserves in Middlesbrough mean there is little scope to either cover overspends from reserves or invest revenue reserves in the transformation of services that is required.

29. The actions taken to date have been acknowledged by the External Auditor within its Value for Money Update and issuance of statutory s24 recommendations in which it concludes that:

30. The Council is in a strained financial position and faces significant financial challenges, including high levels of demand for its social care services and the impact of inflation. Whilst the Council has taken steps to address these challenges, including a 'reset' of its children's services budget and implementation of both financial recovery and savings plans, these actions have not been able to stabilise the deterioration in the Council's financial position. Without more significant intervention, the Council is highly likely to deplete its limited remaining reserves over the next 12-18 months and, in effect, run out of resources.'

31. The Auditor has recommended that:

- *the Council builds upon the steps already taken to control its expenditure to identify specific deliverable savings over the short term (next 12 months) and protect its limited remaining reserves. Where appropriate, this may need to include the Council changing how it meets its statutory responsibilities and the extent to which it delivers services which are not required to discharge its statutory responsibilities.*
- *the Council reviews its service delivery models to ensure that they are efficient, represent value for money and achieve the outcomes required for the resources invested. Where opportunities to improve service delivery models are identified, the Council should develop detailed plans for implementation of service delivery transformation and how the up-front transformation costs will be funded.*
- *the Council review its financial forecasting processes to understand why significant financial pressures, over and above those anticipated and reflected in the Council's annual budget, have emerged within the first half of both the 2022/23 and 2023/24 financial years and ensure future forecasting reflects the lessons learned.*

## Medium Term Financial Plan

32. I also presented a report to the Executive on 23 August 2023 on a refresh of the Medium Term Financial Plan 2024/25-2026/27. This report identified an increased budget gap between the projected net revenue budget requirement and assumed funding for 2024/25 of £14million, rising to £21million in 2025/26 and £24.5million in 2026/27.
33. It was stressed to all Members by the s151 Officer at the briefing of 22 August that the current year forecast is unsustainable and *must* be controlled within budget, to avoid exhausting the Council's reserves and potentially, a Section 114 Notice. Further, it is essential to develop new plans for services that enable a legally balanced budget to be set for 2024/25.

## Risk of Section 114 Notice

34. If it appears to the Director of Finance, S151 Officer that total expenditure cannot be managed within the approved budget of £126million by 31 March 2024, or that it is not possible to set a balanced budget for 2024/25, there is a statutory requirement for the Director of Finance to issue a s114 Notice to the Council under the provisions of the Local Government Finance Act 1988. Such a report would only be issued where all other options had been exhausted and the process around it is governed under legislation.
35. This would inevitably mean the loss of autonomy and would result in the cessation of all but the minimum level of expenditure to meet the statutory minimum level of service and Council liabilities and the need to develop and deliver a Council-wide financial recovery plan.
36. As an illustration, in 2018 Northamptonshire County Council became the first council for 20 years to file a section 114 Notice and the radical repercussions which followed included the appointment of independent Commissioners, suspension of democratic decision making in the Council, ultimately the abolition of the county council and the seven borough councils and them being replaced with two unitary authorities by April 2021.
37. Members may be aware that on 05 September 2023, Birmingham, the largest local authority in Europe, became the latest council to issue a section 114 notice.
38. The Department for Levelling Up Housing and Communities (DLUHC) now provide an option for local authorities in financial difficulty which is considered to be unmanageable, to apply for Exceptional Financial Support. In practice, this presents an intermediate step aimed to avoid a s114 scenario and will be considered further if required. In some cases councils who have successfully applied for Exceptional Financial Support have avoided a section 114 Notice, whereas in other cases they have not been able to prevent this despite the additional support.

39. This support would not involve the direct provision of additional external funding by Government but would potentially allow the use of our own capital resources (borrowing and/or capital receipts) to support the revenue budget during the financial recovery period. Local authorities who have been provided with Exceptional Support have been required to undergo an external assurance review to provide a detailed assessment of their financial position and management. Further details of councils involved to date can be found using the link below.

[Exceptional financial support for local authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

40. Preliminary discussions with DLUHC officials have already taken place to advise of the emerging financial challenge and the possibility of the need for the Council to request Exceptional Financial Support before the end of the current financial year in order to avoid the exhaustion of usable revenue reserves or if it should not be possible to set a balanced budget for 2024/25.

41. The above outlines an extremely serious position for Middlesbrough Council and it is a position that we have never been in before. As stressed in my last report to Council this requires all officers and councillors to work together to address the very challenging position that will face us for some time.

### **Members briefing on the Financial Position and External Auditor's Value for Money Update and Issuance of Recommendations**

42. On August 22 there was an online all member briefing by the Chief Executive and Director of Finance on the Council's financial position, providing the opportunity for all councillors to be made aware of the facts and to ask questions. The briefing also covered the Auditor's report including 11 s24 recommendations that require the Council to take specific action which is being considered by Council at this meeting. Thank you to the members who attended and provided some valuable questions and inputs into the session.

### **Members' Financial Training**

43. There were two excellent Finance Training sessions delivered in August by Cllr Graham Chapman, LGA Regional Member Peer. One for Executive Members and Chairs, and the second for all members.

44. For those who were unable to attend either of these sessions, there will be a 'mop up' session on Friday 20<sup>th</sup> October at 4.30pm at the Collaboration Zone, Fountain Court.

45. I would encourage anyone councillor who has not already attended this training to do so. This is particularly important bearing in mind the financial position we face and the challenging decisions that will have to be taken by all councillors as part of the budget setting process.

## THE TIME AHEAD

46. Following the member briefing and financial training referred to above, the Director of Finance has extended a further invitation to all members who have further questions to contact her to arrange further discussions and support at individual member or group level.
47. I am also happy to discuss these matters further with any councillor, please feel free to contact me if you wish to do so.

### **Email address for suggestions on budget savings**

48. Following a discussion at Works Council on 15 June 2023, I requested that the means by which officers and members can submit suggestions around financial savings be re-introduced.
49. The email address for suggestions which was circulated to all members at my request on 22 August 2023 and has also been provided to staff is:
50. [financialplanning@middlesbrough.gov.uk](mailto:financialplanning@middlesbrough.gov.uk)
51. I have been assured that all suggestions will be considered. Thank you to those members who have already made contributions.



## **Budget timetable**

52. I am also keen, as are officers, that all members are given the opportunity to take part in briefings at an early stage within the annual budget setting process. Discussions are also to be held with the Chair of OSB as to how scrutiny can be involved. A timetable for this is being compiled and will be shared with members once it is finalised.

## **Members' enquiries system (Onestop)**

53. As part of our Corporate Governance Improvement journey, feedback from Members on the effectiveness of the Member Enquiries process has been sought.

54. Several briefings have been held with Members to understand how to improve things in the short-term, as well as listening to what they want and need from a new system and process, going forward when reporting service and information requests.

55. I attended the latest such session on 25 July 2023, the first held since the local elections, which aimed to support members, particularly those new to using the system and to seek views on how it could be improved.

56. The feedback from Members has in the main, focused on the following areas:

- Timeliness of responses
- Appropriateness / effectiveness of responses
- Premature closure of logged Member Enquiries

57. I will be attending a follow up session with officers on 06 September with service staff on this subject and will provide a further update in my next report.

NAME: Cllr Nicky Walker

DATE: 18 September 2023