

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on Wednesday 15 November 2023.

PRESENT: Councillors M Storey (Chair), J Kabuye (Vice-Chair), J Banks, I Blades, E Clynch, S Dean, J Ewan, M McClintock, J Platt, M Smiles, J Walker and J Young

PRESENT BY INVITATION: Councillor N Walker (Executive Member for Finance and Governance)

OFFICERS: S Bonner, A Johnstone and A Perriman

APOLOGIES FOR ABSENCE: Councillors J Ryles

23/31 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

The Chair welcomed Councillor Jackie Young to the Overview and Scrutiny Board following her being elected to Council.

23/32 **MINUTES - OVERVIEW AND SCRUTINY BOARD - 18 OCTOBER 2023**

The minutes of the Overview and Scrutiny Board meeting held on 18 October 2023 were submitted and approved as a correct record.

The Chair thanked the Vice Chair for taking the Chair in his absence at the last meeting.

23/33 **EXECUTIVE MEMBER UPDATE - FINANCE AND GOVERNANCE**

The Chair welcomed the Executive Member for Finance and Governance and invited her to present her information. The Executive Member advised the Board that while she was elected in 2023, she had previously held similar portfolio responsibilities between 2003 and 2015.

The Executive Member outlined her personal targets for her portfolio, with the main target being the avoidance of issuing a Section 114 Notice. The Council's ability to issue a Section 114 Notice was found in the Local Government Finance Act 1988 with reasons including the current year's expenditure exceeding available resources or the inability for the Council to set a balanced budget. It was clarified there was no procedure in law for the Council to declare itself bankrupt.

A Section 114 Notice was not a silver bullet solution to budgetary problems, and it should be avoided. Issuing a Section 114 Notice would also remove significant amounts of autonomy from the Council. The Council was duty bound to perform its statutory duties but there was no requirement to perform those duties in a particular way. If a Section 114 was issued the Council would only retain minimal levels of expenditure to meet statutory duties and it would need to create a financial recovery plan. If the Council issued a Section 114 Notice the Government would set the Council's budget, which for other authorities, had resulted in cuts to services and the sale of assets.

The Executive Member highlighted a comment made by the Chief Executive of the Local Government Information Unit. They stated while government commissioners could turn a Council's finances around the cure could be brutal. It was valued by the community but non-statutory that would likely be cut first, such as community centres, libraries, and cultural related services. Such cuts would also likely be made to preventive services.

The cost of government commissioners was £1100 per day, per person plus expenses which would be borne by the Council. In some cases where Section 114 Notices had been issued the government had allowed Councils to raise their Council Tax levels above prescribed limits. Examples included Croydon that had raised its Council Tax levels to 15%.

At this point, the Executive Member invited questions from the Board.

As the Street Wardens were funded from a separate grant, a Member queried if commissioners could cut this service, if they were brought in. It was clarified that while the Street Wardens were funded by grant for this financial year, they would need to be put in scope of the general budget next financial year. It was also clarified that Street Wardens were not a statutory service. The Member also queried if a grant was ring fenced could this be cut. This was unlikely as doing so would serve no financial advantage. However, if grants were not being used for specific purposes this would need to be classed as growth in the budget.

A Member queried if preventative services had a significant budget. This was confirmed but also that any cuts to those services would be a false economy. It was also asked if cuts would equate to job losses. This was also confirmed as the Council's largest spend was on staff. Where Section 114 Notices had been issued there had been significant job losses.

A Member commented that, in the event a Section s114 notice was issued, staff would be given a statutory redundancy notice only. While this could be not confirmed the Executive Member commented it would be highly likely. She also commented the Council currently prioritised and retained control of any savings it had to make. This was preferable to outside bodies making such decisions for the Council.

A Member queried how likely issuing a Section 114 Notice was. The Executive Member commented it could not be ruled out, but the prospect was less likely due to the ongoing work to reduce the budget overspend for 2023/24. However, next financial year would be more difficult, and it was more likely the Council would seek exceptional financial support. The Council was also awaiting the announcement of the Autumn Budget Statement, but the Local Government settlement would not be known until just before Christmas 2023. There were several actions required to bring the budget into balance, some of which depended on the success of planned transformation programmes. However, the biggest financial risk to the Council was Children's Services, and any shocks in that area could have significant implications for the overall budget.

It was asked what plans were being put in place in the event a Section 114 Notice was issued. It was clarified plans were being drawn up to avoid a Section 114 Notice at all costs, and that the Council would not benefit from issuing a Section 114 Notice. A conversation took place regarding how cuts to local government over the preceding 13 years had impacted the current financial situation. It was commented that while demand costs were increasing, previous cuts had played a role in the current situation.

The Executive Member continued with her presentation.

From a national perspective, The Levelling Up Committee had stated that Section 114 Notices were no longer idiosyncratic but more systematic. It was increasingly the case that funding was unable to cover local authority costs. Half of all Councils stated they would be in financial distress in the next two years. Adult and Children's Social Care were the largest areas of spend and the Board was presented with the so-called Barnet Graph of Doom that tried to illustrate how spending on social care would overtake all other aspects of spending.

From a local perspective, Middlesbrough had seen a 46% reduction to its finances since the changes to the local government finance system in 2013/14. Other factors that affected Middlesbrough's financial position included a low Council Tax base, with more than 50% of houses being in Bands A or B as well as the fact Middlesbrough was the 5th most deprived authority in England.

The Council also had critically low levels of reserves, such as its usable earmarked reserves, which were usually used to cushion overspends. These had been reduced from £16 million to £4 million between 2019 and 2023 and had not been replenished. This left a total of £14.829 million in unrestricted revenue reserves.

At this point the Executive Member invited questions from the Board.

A Member queried if the reduction in income from government had considered inflation. It was confirmed that if inflation had been considered the reduction would have been more than 50% rather than 46%.

A discussion took place about the Council's reserves levels. It was discussed that while the Council's reserves had increased slightly during the Covid-19 pandemic the monies received during that time were for activities associated with this. It was also discussed that the reduction in the levels of reserves was due to attempts to balance the budget. Members also discussed the relatively low Council Tax base for Middlesbrough as opposed to neighbouring authorities such as Stockton. If Middlesbrough had a higher Council Tax base this would have mitigated the impact of reduced income from government.

It was asked why the Council's reserves had been so heavily depleted since 2019. It was confirmed that as the Executive Member was not a Councillor between 2019 and 2023, she could not comment.

At this point the Executive Member continued with her presentation.

The Executive Member outlined the budget setting process and the reasons CIPFA had been invited to work with the Council. It was noted this action indicated there was problem with the Council's budget profiling.

With regards to the Quarter Two outturn overspend projections, this had been reduced by £3million to £8.5 million. However, it was commented that current service delivery models were incurring annual expenditure more than the Council's income. Overall, if the current projected overspend of £8.5 million was not reduced this would be added to the expected budget gap of £14.2 million for 2024/25.

There were several actions being undertaken to ensure the Council operated within budget. These included vacancy control panels, a review of the Council's fees and charges and monthly budget challenge sessions that were chaired by the Executive Member. While the challenge meetings had been operated prior to 2019 they had been reintroduced. The challenge sessions identified budget issues and challenged any overspends. The Executive Member also met with Directors on a regular basis and attended the weekly Policy Development Group. The Executive Member also commented that the Independent Improvement Advisory Board provided useful challenge and that she was taking responsibility for making tough decisions.

One of the primary goals in setting the budget was to undertake transformation activities rather than salami-slicing the budget. The Council was also required to heed the statutory recommendations put forward by the external auditor, EY. These recommendations included a need for Transformation, a need to bring expenditure in line with income and to manage service demand. There was the possibility of stopping some services and replenishing reserves as part of this process. It was also highlighted that approaching the government for exceptional financial support was a last resort which could result in the Council receiving the support, having it refused or receiving a lower amount that requested.

At this point the Executive Member invited questions from the Board.

A Member queried if the email for budget suggestions was in operation as this had been mentioned during the Chief Executive's update. It was confirmed the email was in operation and that an email for Members to suggest budget suggestions had also been created. The Executive Member had emailed all Members to remind them of this and reassured the Board that all suggestions were being examined. A Member queried to what extent other Councils were being examined as areas of best practice. It was commented that suggestions had been made to examine how other Councils were operating. For example, the Independent Improvement Advisory Board had suggested that in other Council areas the Library Service had utilised volunteers to help run libraries, and in a wider capacity. It was also confirmed that Council officers had visited different authorities to understand how some services had been brought back in house.

It was also commented the Council had engaged a consultancy firm, Inner Circle, who had experience in helping Councils facing financial difficulty. This would be for a short-term period.

Members also discussed the possibility that some officers may have been working to improve services while those services may already be excellent. As such the Council needed to ensure it was changing only those areas it needed to change which could potentially mitigate the need for cuts across a wide area. The Executive Member clarified there were various online tools that

allowed comparisons to be made between Middlesbrough and other Councils. Such tools provided insight into spending patterns between Councils.

Based on the number of Section 114 Notices being issued, a Member queried how much effort was being made to seek exceptional financial support. It was confirmed such dialogue was being undertaken between the Department for Levelling Up, Communities and Housing and Council officers. It was also reiterated that if the Council could not set a balanced budget it was required to approach the government for additional financial assistance, but the closer the Council got to balancing the budget the more likely it was it would receive financial support if requested.

Members discussed the fact that Children's Services was a high spending area and that resources should be spent in areas that enabled families to help themselves. The Executive Member commented that in the financial year 2023/ 2024 an additional £17million had been put into Children's Services budget. Previously, any overspend in Children's Services had been met with additional budget. Carrying out transformative work would, potentially, enhance early intervention that could see reduced overspends going forward. It was also discussed that some placements for Children were expensive, and consideration should be provided to bring care homes back in-house. It was commented that Middlesbrough was out of step on this issue and such a move was required.

A Member queried what timeframes were involved for the transformation process. It was clarified this was ongoing but there were some deadlines for the financial year 2024/ 25.

The Executive Member continued with her presentation.

One of the recommendations made by the external auditor was a need for improved Culture. Progress against this action included improved working relationships between the Mayor, Executive Members and Officers as well as Training Programmes that encouraged interaction between Members. The Executive Member thanked Members for their efforts in improving collaboration. Transparency had also been improved with the development and delivery of briefings on finance and other matters.

The Board was advised that a Member briefing would be taking place on 12 December which was the same day the budget proposal report was published.

The Chair thanked the Executive Member for her presentation and stated he looked forward to OSB receiving and considering the budget proposals at its meeting on the 20 December.

Agreed: That the information presented be noted

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EXECUTIVE FORWARD WORK PROGRAMME

The Chief Executive submitted a report which identified the forthcoming issues to be considered by the Executive, as outlined in Appendix A to the report. The report provided the Overview and Scrutiny Board with the opportunity to consider whether any item contained within the Executive Forward Work Programme should be considered by the Board or referred to a scrutiny panel.

A Member queried whether the Board would get chance to consider the Asset Review as it had long-term implications for the Council. The Chair clarified this would be considered as part of the Budget Proposals when they were presented to OSB at its meeting on 20 December.

AGREED that:

- That the Asset Review be referenced as part of OSB's consideration of the budget proposals;
- The information, as presented, be noted.

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SCRUTINY CHAIRS UPDATE

The Chair of OSB invited individual Scrutiny Panel Chairs to provide their updates:

Adult Social Care and Services

The Chair of the Panel apologised for her absence from recent meetings and thanked the Panel's Vice Chair for assuming the role of Chair in her absence. Members were advised the Panel would no longer be reviewing hospital discharge and would instead be reviewing preventative services. This review would examine helping people remain in their own homes as Middlesbrough had previously relied on care home provision. Allowing people to remain in their own homes was better both for individuals and the Council.

Children's and Young People Scrutiny Panel

The Panel had received information from South Tees Safeguarding and would be looking closely at school attendance as the main topic for the Panel.

Environment

The Chair of OSB presented the update in the Chair of the Panel's absence. The Panel had met on 13 November during which officers from Environment Services had provided further information around recycling, including the amounts and types of recycling collected. At the meeting the Vice Chair of the Panel provided an update regarding the Crustacean Deaths Collaborative Working Group and the Panel agreed its Terms of Reference for its review. The Panel's next meeting was scheduled for 11 December.

Health

The Panel's next meeting was the 20 November at which Professor Tim Thompson would be attending as guest speaker in relation to the Panel's review into free dental care. In addition, representatives from Health Watch would be attending to provide information about local population views on accessing NHS dentistry as well as the impact of Covid-19.

Regeneration

The Panel met on 1 November and received an update from the Planning Advisory Service in relation to planning capacity in Middlesbrough. The Planning Advisory Service was part of the Local Government Association that aimed to help implement changes in the Planning system. An issue for Middlesbrough was the possibility of receiving a Designation on Planning which could be viewed as a failure. This would be known during the first week in January. About 10 Councils per year were designated, and when this happened Councils had two weeks to respond. The Panel also received a verbal update on the Local Plan with the Panel's next meeting being on the 6 December.

A Member queried if the Designation was due to the speed applications were being processed. It was clarified the Council was complying with government standards and timescales for all application types other than large applications. For large applications the Council was slightly under the required target. In the event the Planning Service was put into special measures the Council would continue to process applications, but any resulting fees would be claimed by the government.

AGREED that the information presented be noted.

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ANY OTHER URGENT ITEMS WHICH, IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.

None.