EXECUTIVE

A meeting of the Executive was held on Tuesday 7 September 2021.

PRESENT: Mayor A Preston (The Mayor) (Chair) and Councillors S Hill, E Polano and M Smiles.

PRESENT BY INVITATION: Councillors T Mawston and J Thompson.

ALSO IN ATTENDANCE: Councillor J McTigue and E Craigie (Teesside Live).

OFFICERS: C Benjamin, M Brown, S Butcher, G Cooper, D Johnson, A Pain, S Reynolds and I Wright.

APOLOGIES FOR ABSENCE: Councillor B Cooper

21/40 **APOLOGIES FOR ABSENCE**

Apologies had been received from Councillor B Cooper and an Invited Member, Councillor M Saunders (Chair of the Overview and Scrutiny Board).

21/41 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Item/Nature of Interest
Mayor A Preston	Pecuniary	Item 9, Middlesbrough Development Company (MDC): Empty Homes Partnership

SUSPENSION OF COUNCIL PROCEDURE RULE NO 5 - ORDER OF BUSINESS

ORDERED that, in accordance with Council Procedure Rule No 5, the committee agreed to vary the order of business.

The Mayor advised that, given the pecuniary interest that he had declared in respect of agenda item 9, that item would be considered after item 11a at which point he would leave the meeting and proceedings would be chaired by Councillor Smiles.

21/42 **MINUTES - EXECUTIVE - 10 AUGUST 2021**

The minutes of the Executive meeting held on 10 August 2021 were submitted and approved as a correct record.

21/43 **CHILDREN'S SERVICES IMPROVEMENT PROGRAMME: OVERVIEW OF PROGRESS FEBRUARY 2021 - JULY 2021**

The Mayor and Lead Member for Children's Social Care, Adult Social Care and Public Health and the Executive Director of Children's Services submitted a report for the Executive's consideration.

The purpose of the report was to provide an overview of the work undertaken from February 2021 to July 2021 in line with the Children's Services Improvement Plan 2020/21 and 2021/22.

The most significant events to report were a focussed visit from Ofsted on 26 and 27 May 2021 and a visit from the Commissioner during the week commencing 12 July.

Following Middlesbrough's focussed visit, a selection of key points were made by Ofsted, which included:

- Leaders appropriately prioritised recruitment and the development of the workforce strategy.
- Workers were persistent and built good relationships with children, so interventions were more effective.
- Staff reported feeling supported, liked working for Middlesbrough and understood the vision for change.
- Caseloads were reducing but remained too high for some social workers.
- The quality of practice was variable and did not meet leader's expectations.
- Some children experienced too many changes of social worker. Children told inspectors that they would have liked a social worker who stayed with them for a long time.
- There was a significant focus on Children Missing Education.
- A minority of Looked after Children were on reduced timetables or had no education for too long.

Following the visit, the inspectors had made two recommendations, in addition to those made at the time of the 2019 inspection, namely:

- To improve management oversight and actions to ensure that vulnerable children and children in care, including those with special needs and/or disabilities (SEND), receive their full educational entitlement
- To improve the understanding of identity and the diverse needs of children and their families to inform assessment, planning and support.

With regard to the visit from the Commissioner, the Commissioner had stated that "*considerable progress has been made and there is evidence of real impact*" and a recommendation would be put forward that "*no further direct engagement of an appointed commissioner is required and continued monitoring and support to improvement is afforded by the Improvement Adviser and the core DfE team*". It was planned that the recommendation would be presented to the Minister on 8 September, for a decision to be made by 15 September 2021.

Further information on the feedback received from Ofsted, and the Commissioner, was detailed at paragraphs 5 to 13 of the submitted report.

ORDERED

That the overview of the strategic and operational work, undertaken between February 2021 and July 2021 in line with the Children's Services Improvement Action Plan 2020/21 and 2021/22, be noted.

REASON

To ensure Executive Members were fully appraised of the work to improve outcomes for vulnerable children in Middlesbrough and were able to hold officers to account when progress was not made as planned.

21/44 **CORPORATE PERFORMANCE UPDATE: QUARTER ONE 2021/22**

The Mayor and Lead Member for Children's Social Care, Adult Social Care and Public Health and the Chief Executive submitted a report for the Executive's consideration.

The purpose of the report was to advise of corporate performance at the end of Quarter One 2021/22 and, where appropriate, seek approval of changes.

The Council's performance overall at the end of Quarter One had been positive, with expected performance standards (as set out in the Council's risk appetite) being achieved in the majority of areas. Further work was required in respect of plans to achieve some Strategic Plan outcome targets, and a review of risk registers in line with the Council's new strategic priorities would be completed in Quarter Two.

In terms of progress in delivering Executive actions, at Quarter One 58 of 59 live actions (98%) were on target to be delivered by the agreed timescales (exceeding the 90% standard of achievement of actions), with one proposed amendment for Executive approval that was set out at Appendix 1 of the submitted report. Further information on the proposed amendment was detailed at paragraph 10 of the report.

In terms of progress in delivering the Strategic Plan 2021-24, at the end of Quarter One 15 of 24 (62.5%) Strategic Plan outcomes were on target against the corporate standard of 75%, as set out in the table below paragraph 12 of the submitted report. Further information on the strategic plan outcomes and workplan was contained at paragraphs 12 to 23 of the submitted report.

Issues raised within the submitted report that impacted on the risk profile of the Council were reflected within the Council's Strategic Risk Register (SRR), which was reviewed in the quarter in line with the Council's policy and was set out at Appendix 2 of the submitted report. Key points to note were detailed at paragraph 24 of the submitted report.

In terms of progress in delivering Directorate Priorities for 2021/22 and risk mitigations, at the end of Quarter One 100% of Directorate priorities were rated either Green or Amber (i.e. some milestone slippage but still expected to be delivered in-year), in line with the expected standard of 90%. Performance in delivering mitigating actions associated with high or medium risks on Directorate risk registers was above the expected performance standard of 90%.

In terms of progress in delivering Programmes and Projects, at the end of Quarter One 20 of 27 programmes were rated Green and the remaining seven Amber, together meeting the expected standard of 90%. While some projects required updated milestones due to the impact of COVID-19, no significant issues were escalated at the end of Quarter One.

In terms of progress in other corporate performance matters, key points to note were detailed at paragraph 30 of the submitted report.

ORDERED

- **That the proposed amendments to Executive actions, outlined at Appendix 1, be approved.**
- **That the progress in implementing the Strategic Plan 2021-24 at Quarter One 2021/22 be noted and the revised deadlines for the action at paragraph 23 be approved.**
- **That in light of the position outlined in the report, the Council's updated Strategic Risk Register at Appendix 2 be noted.**
- **That the progress in implementing 2021/22 Directorate priorities, set out at Appendix 3, be noted.**

REASON

To enable the effective management of performance and risk in line with the Council's Local Code of Corporate Governance.

21/45 **COMMUNITY ENVIRONMENTAL INITIATIVES**

Item deferred.

21/46 **REVENUE AND CAPITAL BUDGET - PROJECTED OUTTURN POSITION AS AT QUARTER ONE 2021/22**

The Executive Member for Environment and Finance & Governance and the Director of Finance submitted a report for the Executive's consideration.

The purpose of the report was to advise of the Council's financial position at Quarter One 2021/22, including the projected effect of Covid-19 on the Council's finances.

The 2021/22 Revenue budget for the Council was £116,492,035. During Quarter One there had been a number of transfers of services between Directorates due to managerial changes, and the financial position was reported against the new Directorate budgets. The Council's outturn position for 2021/22 for non-Covid-19 elements was projected to be an overspend of £1.717m (1.5%). The split by Directorate was shown in the table below paragraph 7 of the submitted report. That when added to the estimated Covid-19 pressures of £2.036m, detailed in paragraphs 45 to 73 of the submitted report, resulted in a total projected outturn pressure at year-end 2021/22 of £3.753m.

It was proposed that the total projected overspend in 2021/22 would be covered by Reserves. The level of Reserves remaining after the use of the Reserves was shown at paragraph 108 of the submitted report and in Appendix 3.

The progress against budget savings was detailed at paragraphs 11 to 15 of the submitted report.

The detail of the variances contained in the table at paragraph 7 were set out as below:

- Regeneration and Culture (paragraphs 17 to 19)
- Environment and Community Services (paragraphs 20 and 21)
- Public Health (paragraph 22)
- Children's Care (paragraphs 23 to 32)
- Adult Social Care and Health Integration (paragraphs 33 to 35)
- Legal and Governance Services (paragraph 36)
- Finance (paragraphs 37 to 39)
- Central Budgets (paragraphs 40 to 44)

At Quarter One, 25 areas were projected to be spent +/- £150,000 of the agreed budget. Where appropriate, the on-going effects of variances would be considered as part of future updates of the Council's Medium Term Financial Plan.

As part of the Revenue and Capital Budget - Year End Outturn Position report of 15 June 2021, Executive had approved a revised capital budget for 2021/22 of £93,716,000. Following a further review and the inclusion of new additional schemes, increases to existing schemes, and reductions to existing schemes (as detailed in paragraphs 82 to 84 of the submitted report), it was currently predicted at Quarter One that the Council would spend £82,029,000 in 2021/22 at year-end.

The revised Investment Strategy for 2023/24 was included at Appendix 2, for approval.

In terms of capital budget, the split by Directorate was shown in the table at paragraph 86 of the submitted report, which also showed the "real" projected outturn variance if all of the additional new schemes, increased schemes, reduced schemes, and transfers between directorates were excluded. Explanations for variances of +/- £150,000 across fourteen schemes were set out in paragraphs 87 to 100.

ORDERED

1. **That the 2021/22 revenue budget Quarter One total projected outturn of £3.753m, representing a £1.717m (1.5%) overspend on non-Covid-19 elements and the estimated financial effect of Covid-19 in 2021/22 of £2.036m, and the proposed actions to address that - be noted.**
2. **That the proposed use of the following Reserves to fund the total projected overspend of £3.753m in 2021/22 be noted:**
   - **Social Care Demand Reserve (£0.5m)**
   - **Children's Services Demand Reserve (£0.732m)**
   - **Covid Recovery Reserve (£2.521m)**
3. **That the proposed revenue budget virements over £150,000 (Appendix 1) be approved.**
4. **That the 2021/22 capital budget Quarter One predicted outturn of £82.029m against a budget of £93.716m be noted, and the proposed revised Investment Strategy to 2023/24 at Appendix 2 be approved.**

REASON

To enable the effective management of finances, in line with the Council's Local Code of Corporate Governance, the Scheme of Delegation and agreed corporate financial regulations.

21/47 **SUPPLIER INCENTIVE PROGRAMME**

The Executive Member for Environment and Finance & Governance and the Director of Finance submitted a report for the Executive's consideration.

The purpose of the report was to seek approval of the procurement and implementation of a SIP for Middlesbrough Council.

As part of a drive to improve commercialisation, an opportunity had been identified which planned to allow the Council to continue to support the local economy and suppliers but also create an income stream that was not currently being achieved.

The SIP offered the Council the ability to continue to support the local economy and suppliers but also make a commercial return of approximately £150k per annum over the next 5 years.

The Council had been considering the implementation of the SIP programme for some time and it was hoped that the solution would further enable electronic receipt, matching and payment of supplier invoices thereby improving processes and cash flow for all suppliers as well as providing the functionality for an optional three way incentive programme to deliver even earlier payments (e.g. even earlier than 20 days).

With enhanced checks and controls in place as part of the SIP programme, it also planned to reduce the risk of duplicate and fraudulent payments, which presented a heightened risk in the current economic climate. The SIP planned to enable thousands of invoices to be processed early, injecting millions of pounds of liquidity into the economy, with the additional revenue generated from the SIP Programme being channelled into frontline services for the benefit of local residents.

The SIP worked on the following principles:

- e-invoicing;
- supplier payment terms were set at standard 30 days; and
- no supplier was compelled to sign-up to, or participate in, the programme.

A description of the key objectives of the project were:

- to procure and implement a SIP to suppliers;
- to on board at least 40% of in-scope suppliers (3rd party Trade spend);
- to improve P2P processes to maximise invoice acceleration; and
- to improve cash flow for suppliers that could assist in recovery from COVID 19 and generate additional funds that could be reinvested into frontline services (on a free of charge basis for small local suppliers - "Freepay")

OPTIONS

Implementing a SIP internally had been considered, however, the cost associated would have been significantly more than the cost of procuring it via the NEPO Framework.

Oxygen Finance were working with over 30 other local authorities and had proven experience in implementation and delivery that the Council could not duplicate without significant additional resources.

Oxygen had over 10 years' experience in running Early Payment Programmes and had developed a tried and tested methodology. That included templates and a fully resourced team to minimise the effort required by the Council.

The Oxygen solution was VAT compliant and had been subject to legal guidance to ensure compliance to various relating legislative requirements including the Construction Act.

ORDERED

1. **That the Council reverting back to the Statutory payment term of 30 days be approved.**

2. **That the procurement and implementation of a Supplier Incentive Programme ('SIP') with Oxygen Finance Ltd ('Oxygen'), via the NEPO 521 Early Payment Services Framework, be approved.**
3. **That utilising the E-Invoicing format to ensure compliance with Public Contract Regulations 2015 (PCR) be approved.**

REASONS

In addition to the rebate there were also other non-cashable benefits that could be realised through the implementation of the system:

<u>Benefits to the Supplier / Economy</u>

- **Suppliers could secure even quicker payment terms, which would further improve liquidity and cash flow.**
- **Local small and micro businesses would be able to benefit from 'Freepay' at no cost.**
- **Deliver social value, contributing to the development and post Covid-19 recovery of the local economy through the earlier payment of invoices.**

<u>Benefits to the Council</u>

- **There were legislative drivers that may be partially addressed through a properly implemented SIP:**
    - **The Public Contracts Regulations 2015 - liabilities paid within 30 days (increased compliance to target);**
    - **The Public Procurement (Electronic Invoices etc.) Regulations 2019 - Electronic Invoicing Directive contained provisions relating to the processing of electronic invoices (ability to comply through implementation of eInvoicing);**
    - **The Late Payments Directive - automatic entitlement to interest for late payment (reduction in late payment liability).**
- **Improved Council performance in terms of Accounts Payable.**
- **Improved strategic engagement with suppliers who choose to sign up.**
- **Encouraged suppliers to help drive best practice (e.g. e-invoicing) and compliance (e.g. no PO/ no pay).**
- **Contributed toward social value goals by improving cash flow for local businesses and creating added social value in Middlesbrough.**
- **Over the medium term the programme would generate a net return (after implementation costs and lost interest on balances held) that could be reinvested into the delivery of front line services.**

21/48 **FINAL REPORT OF THE AD HOC SCRUTINY PANEL - MEMBERS' COMMUNICATIONS - SERVICE RESPONSE**

The Ad Hoc Scrutiny Panel had undertaken a review of Members' Communications. A copy of the full report was attached.

The scrutiny panel made 4 recommendations upon which a response was sought from the relevant service area. The Deputy Mayor and Executive Member for Culture and Communities and the Director of Legal and Governance Services submitted a service response to the recommendations of the Ad Hoc Scrutiny Panel. A copy of the Action Plan was attached.

The 2020/21 Chair of the Ad Hoc Scrutiny Panel presented the final report to the Executive. The Deputy Mayor and Executive Member for Culture and Communities presented the service response.

ORDERED

1. **That the content of the Ad Hoc Scrutiny Panel's Final Report, on Members' Communications, be noted.**
2. **That the Action Plan, developed in response to the scrutiny panel's recommendations, be approved.**

REASON

It was a requirement that Executive formally considered the Scrutiny Panel's report and confirmed the Service Area's response to the Panel's accompanying plan.

21/49 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

It was advised that given the need to urgently commission a bespoke service called 'Audit to Excellence' and following agreement by the Monitoring Officer and the Chair of the Overview and Scrutiny Board, a special urgent decision would be taken.

21/50 **SPECIAL URGENT ITEM: AUDIT TO EXCELLENCE**

The Mayor and Lead Member for Children's Social Care, Adult Social Care and Public Health and the Executive Director of Children's Services submitted a report for the Executive's consideration.

The purpose of the report was to request agreement to commission 'Audit to Excellence', at a cost of £216k, to ensure that the programme could continue until March 2022 (the end of the current financial year). The submitted report did not request for additional finances, as the programme could be funded from current budgets, namely the Improvement or Change funds.

The 'Audit to Excellence' programme had now been rolled out across the whole service with team plans/performance clinics and non-negotiables in place with strong endorsement of the approach across the service.

Ofsted had commented:

"*The 'Audit to Excellence' framework successfully builds in learning from audit, with clear links to individual team planning, wider service improvements and performance clinics. Social workers and early help practitioners provided inspectors with examples of how they had made positive changes to their practice as a result of their learning from audit*." (Focussed visit in May and published in July 2021.)

OPTIONS

The submitted report set out the reasons why 'Audit for Excellence' could not be delivered in-house.

Securing different auditors was not an option because it would have taken a significant period for them to become familiar with the 'Audit to Excellence' approach and it was important to maintain the pace of the improvement programme.

ORDERED

That the content of the report be approved and the required commissioning takes place at a cost of £216k.

REASON

The finances allocated for auditing purposes ceased in March 2021 and the agency auditors had formed their own business called 'Audit to Excellence' with the aim of working with other authorities to develop similar bespoke approaches. However, there was still a significant amount of work to be carried out in Middlesbrough to fully embed the 'Audit to Excellence' approach and in particular equipping the workforce with the skills to carry out internal audits to a good standard. Therefore, it would be detrimental to Middlesbrough's improvement programme if the Council could not retain the auditors' skills and experience. Sufficient funds had been identified to commission them for nine months until March 2022 at a cost of £216K, which compared well with the auditors previous daily rate as agency workers. A commissioning arrangement would give Middlesbrough more security as agency workers could leave an authority in two weeks, which would again be detrimental to the improvement programme.

The Overview and Scrutiny Board had not examined the report or a Scrutiny Panel as there was an urgent requirement to secure the necessary resources needed to consistently improve outcomes for Middlesbrough's vulnerable children. However, the fundamental aspects had been discussed and agreed by Mayor Preston in his role as Lead Member for Children's Social Care.

It was important to note that the 'Audit for Excellence' programme was for the whole of Children's Services i.e. for children's social care and education and partnerships not just the former. Education services played a significant role in improving outcomes for vulnerable children, indeed all children in Middlesbrough.

21/51 **MIDDLESBROUGH DEVELOPMENT COMPANY (MDC): EMPTY HOMES PARTNERSHIP**

Following a declaration of interest in respect of this item, the Mayor left the meeting at this point. For the remainder of business, Councillor Smiles chaired proceedings.

The submitted report recommended approval of the provision of up to £1m to MDC in the form of a commercial loan, (subject to sign off from the Council's Section 151 Officer), which would be taken from the approved Investment Strategy allocation to MDC.

MDC would then enter into a loan agreement with the partner(s) for a maximum term of 20 years. The loan would incur a cost charged by MDC, which was negotiable. The partner(s) would then be required to state how that cost would be covered, such as through the payment of interest on the loan.

The commercial loan from the Council to MDC would be on the same terms as the loan from MDC to the delivery partner(s).

The partner(s) would fund the refurbishment works in the first instance but would reclaim those costs from MDC through draw-downs from the loan. Once a property was fully refurbished and ready to be let, the partner(s) would request a payment, based on the previously agreed refurbishment costs of each property. That draw-down was anticipated to be on a monthly or quarterly basis.

Funds loaned to the partner(s) from MDC would be secured via a first charge on each property acquired, which would be registered by the partner(s) once the refurbishment loan costs were drawn-down. As the Council owned 100% of the shares of MDC, MBC would have a secured legal interest in those properties. A company debenture may also be considered as an alternative form of security to legal charges on each property.

Any charges on the loan from MDC to the partner(s) would be invoiced and recovered on an annual basis. The charges would be incurred for all funds drawn down via the loan from the first letting of the property and then continuing until repayment of the proportion of the loan relating to that particular property.

The loan to the partner(s) for each property would be repaid in full upon disposal or no later than the projected end date of 2041.

Although the financial arrangements of the investment proposal would be a matter for the MDC Board rather than the Council, the Council's Section 151 officer would need to be satisfied that the funding was being used appropriately and in line with the Company's objectives, and that it represented an appropriate use of the Council's resources.

In response to Members' queries, the Director of Finance advised that the commercial loan provided by the Council would be made up of monies secured from Section 106 Agreements and the Affordable Housing Fund. A Member sought further clarification in respect of the sum obtained from Section 106 Agreements, the Director of Finance advised that further information would be provided in due course.

OPTIONS

In respect of the recommendation for the Council to invest £1m to enable MDC to enter into an Empty Homes Partnership, the other options were set out below:

- **Do nothing - would not realise any of the benefits.**
- **MBC partner with another organisation - the Council did not have the staffing capacity to deliver the scheme.**

ORDERED

1. **That the provision of up to £1,000,000 to MDC to establish a partnership to invest in the refurbishment of empty and poor quality properties, within the key target areas of Middlesbrough, be approved. That funding be provided in the form of a commercial loan (subject to sign off from the Council's Section 151 Officer) and be taken from the approved Investment Strategy allocation to MDC.**
2. **That delegated authority be given to the Director of Finance and the Director of Regeneration and Culture to agree the terms of the loan to MDC.**
3. **That MDC be given approval that where appropriate, MDC could acquire properties directly prior to the establishment of a partnership.**

REASON

Investing in the project enabled MDC, and therefore the Council, to deliver tangible Environmental, Social and Governance benefits to the targeted areas within Middlesbrough.

1. **Environmental benefit was delivered by bringing between 100 and 125 properties up to decent homes and legally required environmental standards, based on an average expenditure of between £8k and £10k per property.**
2. **Social benefit was delivered as every property was let to a person or family in housing need, including those facing homelessness, with tenant support provided where required.**
3. **The partner organisation would be a well governed socially responsible company, which, combined with MDC's resources and expertise, would make the project sustainable and meaningful.**

The decision(s) will come into force after five working days following the day the decision(s) was published unless the decision becomes subject to the call-in procedures. The report entitled 'Audit to Excellence' was considered as an urgent item and is therefore exempt from call-in procedures.