

18 January 2022		ITEM: 6
Corporate Overview and Scrutiny Committee		
Discussion Paper - Investments Committee		
Wards and communities affected: All	Key Decision: N/A	
Report of: Sean Clark – Corporate Director of Resources and Place Delivery		
Accountable Assistant Director: Jonathan Wilson – Assistant Director of Finance		
Accountable Director: Sean Clark – Corporate Director of Resources and Place Delivery		
This report is Public		

Executive Summary

The Council has a duty to make arrangements for the proper administration of its financial affairs and to maintain a balanced budget.

The legislative framework underpinning local government financing permits Councils to undertake borrowing and lending activities as part of their routine treasury management or treasury management delegations.

In undertaking these activities, local authorities must have regard to the statutory guidance issued by the Secretary of State in accordance with section 15 (1) (a) Local Government Act 2003 and should follow the good practice framework set out in The Prudential Code.

In July 2020 at the Extraordinary Council meeting Members discussed the formation of a formal Investment Committee. Following the meeting the current informal arrangement has been developed to continue the conversation around investments and the appropriate structure of a committee.

1. Recommendation(s)

That Members:

1.1 Note the report and consider the options set out

2. Background

2.1 The Council's Investment and Treasury Management Strategy was approved by all elected members in October 2017 and has since enabled the local

authority to generate significant income to deliver vital and additional services as well as increase its financial resilience.

- 2.2 Following an Investment Briefing to Full Council on 8 July 2020, Members considered the arrangements for performance and risk management and the future monitoring of the authority's investment portfolio.
- 2.3 Since the meeting in July 2020, the Council has shifted its approach to investments in response to both changes within the market, emerging changes to the framework underpinning treasury activity, and the wider Local Authority environment. The intention and direction now is to manage and monitor the Council's existing investment portfolio to maturity, but not to make any new investments. This change in approach may influence the approach of the committee.
- 2.4 This paper sets out the options available for improving the Council's assurance framework and systems of internal control.

3. Issues, Options and Analysis of Options

Option 1 – Continue with existing arrangements

- 3.1 The Council's Investment and Treasury Management Strategy has been implemented and overseen by the section 151 Officer, who has the delegated authority to take investment decisions, which began in 2014 with the first initial activity with the CCLA.
- 3.2 Scrutiny of the Strategy has been provided by way of the Corporate Overview and Scrutiny committee, Standards and Audit, the Council Spending Review and annual report to Full Council. The Council Spending Review process was agreed by (then) Group Leaders and Deputies as the recognised route for officers to provide updates and share key considerations with Members, and functioned up until 2020 where Members indicated a change was desired.
- 3.3 Corporate Overview and Scrutiny has the following relevant terms of reference:
 - The Council's overall performance;
 - The Council's overall Budget and Value for Money;
 - Council's strategic risk management;
 - Ethical governance matters in conjunction with the Standards and Audit Committee; and
 - Resources, including human resources and asset management.
- 3.4 The Standards and Audit Committee has the following relevant terms of reference:
 - Providing independent assurance that the Authority's financial and risk management is adequate and effective and that there is a sound

system of internal control that facilitates the effective exercise of its functions, including:

- i) considering or reviewing the following and the action taken on them and advising the Council and/or the Cabinet, as appropriate:
 - (a) internal and external audit plans and progress against plans;
 - (b) summaries of external and internal audit reports and progress against recommendations made in audit reports;
 - (c) the annual report of the internal auditor and the Annual Governance Statement;
 - (d) approving the annual statement of accounts and whether appropriate accounting policies have been followed;
 - (e) reports from inspection agencies, including the external auditor's Annual Management letter and report to those charged with governance issues; and
 - (f) keeping under review the Authority's control environment and anti-fraud and anticorruption arrangements, including compliance with the Financial and Contracts Procedure Rules.
- Reviewing the performance of the Council's appointed Internal Audit provider.

3.5 Whilst there is scope for significant scrutiny and understanding related to the Council's investment framework through this route there is a risk of both duplication and gaps in oversight as each committee schedules its own work. This could be mitigated through liaison between the respective Chairs and the formation of a structured plan of work.

Option 2 – Proceed with an informal arrangement

- 3.6 In addition to the existing framework the Council could continue with the informal Member group approach. Whilst this does not meet the initial desire of Members for a committee it may be considered more appropriate given the change in strategy.
- 3.7 This could meet the requirement that those involved in investment decision making have the appropriate capacity, skills and knowledge to enable them to make informed decisions in accordance with corporate priorities and the strategic risk management framework, thus limiting the authority's exposure to risk.
- 3.8 This approach however, while addressing oversight by Members, and technical capability, lacks the formality of a corporate governance arrangement that would demonstrate public transparency and accountability.

Option 3 – Extend the portfolio of existing committees

- 3.9 Additional scrutiny of the authority's investment activities could be incorporated within the terms of reference of one of the existing committees below:
- Standards and Audit Committee;
 - Corporate Scrutiny Committee; or
 - General Services Committee.
- 3.10 These committees already operate in a regulatory capacity to oversee specific functions of the Council and a proposal to broaden their remit could reasonably be considered. This augmentation of the committees' functions could mitigate the risk with the current arrangement that there is insufficient focus on the overall portfolio.
- 3.11 The General Services Committee does not at the present time have a direct role in scrutinising the Council's financial investments, however it does oversee on behalf of the Council the work of Thurrock Regeneration Limited. It has been agreed that there will be quarterly reporting of progress to the committee, accordingly this could be mirrored with the Council's investment portfolio.
- 3.12 Whilst this may provide a seemingly logical extension of functions, there is also a risk that a wider remit will limit the high level of scrutiny required in relation to the investment of public money in the Council's investment portfolio, however recognising that this is likely to be a diminishing portfolio it may be considered appropriate.

Option 4 – Establish an Investments Committee

- 3.13 As was proposed at the Extraordinary Committee meeting on 8 July 2020, a new Investments Committee could be created with the specific function of overseeing the authority's investment portfolio. A potential framework terms of reference attached at Appendix 1.

The core role of the committee would be to:

- Monitor the investment portfolio and strategy;
 - Provide a forum for the s151 Officer to present ideas for consideration in respect of the portfolio;
 - Act as the principal consultee to the annual Capital Strategy Paper, including TOR and delegations, and
 - Provide assurance for other Members and the public through the development and publication of an Investment Strategy Statement that would share key information about the portfolio, and the way the portfolio is being managed etc.
- 3.14 An Investments Committee could demonstrate transparency and provide a specific forum for reviewing and assessing risks and regularly monitoring investments in compliance with the Investment and Treasury Management

Strategy. This would be a specific public forum in which this work is undertaken utilising the skills of Members in this work. The benefits this brings have to be balanced against the additional costs and resource in maintaining a separate committee both in Member and Officer time and commitments. In the context of a managed decline in investments this must be considered.

- 3.15 The committee if constituted would need to be introduced into the constitution. The following key questions need to be considered and the Committee are asked to comment on these elements.
- 3.16 Members may also wish to give an indication of how the committee is chaired at this early stage of development.

Size and Composition:

- 3.17 An appropriate number of Members, with the sufficient skills and capabilities will be required. In accordance with section 15 of the Local Government and Housing Act 1989, allocation of seats should be in accordance with political proportionality unless there is an agreement by all Members of Council that allocations can be outside of the usual proportionality requirements. This will be an ongoing annual requirement.
- 3.18 The Council has the General Services Committee which is generally run on a basis where all groups are represented irrespective of the formal proportionality rules. This is not enshrined in the constitution but works on the convention of the largest party gifting seats to smaller parties who would not automatically be represented. This model could be followed but relies on convention to work.
- 3.19 In accordance with the constitution, the quorum of the meeting will be one quarter of the whole number of Members assigned to that committee, provided that this is no less than 3; and in line with proceedings for other committees, could convene at least quarterly.

Training and Skills:

- 3.20 Membership of the committee would be determined by the political groups. Whilst guidance to groups can ask for Members with particular interests, skills or backgrounds, the Membership of the committee may not have the desired background knowledge at the start.
- 3.21 In accordance with the statutory guidance on local authority investments, its members, whilst not necessarily specialists, would need to be provided with sufficient training, to ensure that those involved have the necessary competence to scrutinise investment activities.
- 3.22 This will be an ongoing commitment not only to undertake training of Members initially but to maintain their awareness of the relevant markets and

economic factors in play. This is common-place in Local Government Pension Schemes, where training is provided regularly by The Pensions Regulator.

Specialism and Expertise

- 3.23 The inclusion of co-opted members on the committee could be considered appropriate in circumstances where specialist input such as investment risk advice would be useful in guiding members. The appointment of these members can be undertaken to meet specific skill or qualification profiles to ensure that identified gaps in Members' knowledge can be supported.

An assessment of the specific input required would be necessary to determine whether co-opted members should be retained, and the number of these.

- 3.24 Members may wish to ensure that non-affiliated consultants are incorporated into the committee structure to provide that level of advice
- 3.25 It should be noted that in order to attract suitable Members it is likely that they would seek remuneration / allowances, this can be facilitated but will be an additional unbudgeted cost.
- 3.26 It should be noted that in accordance with section 13 Local Government and Housing Act 1989, such individuals will not be permitted to vote on matters debated by the committee. It has been suggested that an independent Member could be appointed as Chair of the committee, whilst this could be undertaken this should be approached with significant care, as they would be unable to exercise the voting rights of a chair. There are specific statutory provisions for pension schemes enabling their framework which are not applicable in this context.

Confidentiality:

- 3.27 As an established committee the proceedings will by default be public. However given the specific nature of the committee there will routinely be commercially confidential material which will need to be shared with the Members.
- 3.28 This can be determined in accordance with Part 1, Schedule 12A of the Local Government Act 1972 or is confidential for the purposes of section 100A(2) . In all circumstances the public interest in maintaining the exemption will need to outweigh the public interest in disclosing the information. This is a process Members are familiar with. Members are required to maintain the confidentiality of the Councils commercial information in line with their duties under the Code of Conduct.
- 3.29 Establishing the governance arrangements noted above should provide a robust regulatory framework within which the authority's investments can be made to meet the requirements of transparency and accountability. It should be noted however, that in light of the restrictions on new investments and

limitations of the authority's portfolio, Members should consider whether one of the alternative options set out above may be more appropriate.

4. Reasons for Recommendation

- 4.1 To consider the options outlined above to determine the mode of governance for implementation of the Investments and Treasury Management Strategy.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 This paper is intended to stimulate discussion, any formal recommendations would be considered by the General Services Committee before consideration by Council if a change in the constitution is required. Future reports would need to consider the usual wider corporate implications.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Whilst investment income contributes towards the policies, priorities and performance of the authority, this report has no direct impact.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Corporate Director of Resources and Place Delivery

Whilst there may be resourcing costs should a new committee be formed, these would be met from existing budgets.

7.2 Legal

Implications verified by: **Matthew Boulter**
Democratic & Governance Services Manager and Interim Monitoring Officer

The legal implications are set out in the Executive Summary and body of the report. Any proposed changes to the terms of reference for existing committees or the establishing of a new committee would need to go through the necessary decision making process in order to be included in the Constitution. Members should find the best way to discharge the requirements whilst being mindful of the resources available for committee services

7.3 Diversity and Equality

Implications verified by: **Sean Clark**

Corporate Director of Resources and Place Delivery

No implications at this stage.

- 7.4 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder or Impact on Looked After Children

There are no direct implications arising from this report.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

9. **Appendices to the report**

None

Report Author:

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