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| 22 February 2023 | | ITEM: 14 |
| Cabinet | | |
| Establishing the Strategic Investment Advisory Panel | | |
| Wards and communities affected: Not Applicable | Key Decision: Non-Key | |
| Report of: Councillor Mark Coxshall, Leader of the Council | | |
| Accountable Assistant Director: Not Applicable | | |
| Accountable Director: John Jones, Director of Law and Governance & Monitoring Officer | | |
| This report is Public | | |

Executive Summary

This report sets out the details, including terms of reference and background governance, to establish an advisory committee to the Cabinet relating to council investments.

1. Recommendation(s)

- 1.1 **Establish the Strategic Investment Advisory Panel as outlined in Section 3 and Appendix 1 of this report.**
- 1.2 **That Council is requested to endorse the panel and terms of reference and agree to the necessary appointments to the panel.**

2. Introduction and Background

- 2.1 On 2 September 2022, Thurrock Council received a letter of intervention from the Secretary of State in relation to the high level of risk attached to the financial and commercial investments the Council had made. This risk was detailed in the Quarter 2 financial report which went to Cabinet in December 2022, where an estimated £184.381m structural deficit was identified for the 2023/24 year with an in-year projected deficit of £469.581m.
- 2.2 In response to this situation the Council has established an Improvement Recovery Plan. An aspect of this Plan, in order to manage the financial issues facing the Council, is to establish an advisory panel to the Cabinet, related to investments. This report sets out the suggested nature, format and terms of reference of this advisory panel.

2.3 An advisory committee/panel can be established to advise the Leader/Cabinet under section 102(4) Local Government Act 1972:

(4)A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities [F8, or, where the appointing authority or each of the authorities operate executive arrangements, any executive of that or those authorities, or a committee or member of that executive,] on any matter relating to the discharge of their functions, and any such committee—

(a)may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and

(b)may appoint one or more sub-committees to advise the committee with respect to any such matter

2.4 Under the provisions of regulation 4 of the Local Authorities (England) Functions regulations 2000 (as amended) the adoption of a plan or strategy for a plan or strategy for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision sits with Council, However preparation of the draft of that plan and implementing of the approved plan is an Executive function which can be carried out by the Leader, Cabinet or an Officer under delegated powers.

2.5 The creation of the advisory panel will create a formal mechanism for the Leader and Cabinet members to engage collaboratively with members across the authority in developing the necessary draft plans and strategies for Council's approval.

2.6 Whilst carrying out any borrowing or investments in accordance with the approved plans and strategies is an Executive side function, the panel provides an opportunity for members from outside the Cabinet to be provided with a formal platform to provide advice and guidance to the Leader, Cabinet or an officer acting under delegated powers on the merits of proposed borrowing/investment decisions which fall within the terms of reference of the panel to facilitate improved decision making. There is also scope for non-councillors with appropriate expertise to be co-opted onto the panel to expand the knowledge base and to support the decision-making process.

2.7 The panel will also provide a cross party forum which will review the performance of borrowings /investments and can make recommendations arising from any review.

3. Issues, Options and Analysis of Options

3.1 Following the parameters set out in the legislation, the proposal is to establish a seven Member Panel with the option to co-opt non-Members to bring on expertise or commissioners to the Panel if so desired. Depending on the

nature of the co-optees, Members may wish to consider introducing an allowance for them.

- 3.2 The Panel will be politically balanced, with the current make up being:
- 4 Conservatives
 - 2 Labour
 - 1 Thurrock Independent/ Independent
 - Co-optees as desired.
- 3.3 The Panel would not be a decision-making committee and would serve to advise the Leader/Cabinet on borrowings, investments, traded services and the Council's property strategy (including income generation and the generation of capital receipts). Members of this will panel have an advisory role only and the panel will not exercise any delegated executive or Council decision making powers
- 3.4 The Panel would meet quarterly within a municipal year (although additional "special" meetings could be held if required) and its agenda and paperwork would be subject to access to information rules in that agendas would be published as other public committees currently do. However, it is envisaged that the majority of the Panel's work will be subject to exemption due to the commercial nature of the information being discussed.
- 3.5 The Terms of Reference for the Panel are attached at Appendix 1 for consideration. The legislation permits the panel to appoint co-opted members who are not Councillors. If this takes pace, then it is recommended that co-opted members aren't given voting rights.
- 3.6 The panel would primarily be supported by Council officers. However external expertise will be procured when necessary to ensure that the best possible advice is available to the panel.
- 3.7 Members sitting on this Panel will be expected to undertake specialist training, provided by an external provider.

4. Reasons for Recommendation

- 4.1 The financial management of the Council's investments has been one of the key strands of the recent central government intervention at Thurrock and the Advisory Panel will strengthen the governance of collective decision making around this key area of activity.
- 4.2 The proposed form and terms of reference of the Panel allow for broad political representation on the Panel.

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

5.1 The establishment of the Strategic Investment Advisory Panel is part of the Improvement Recovery Plan and has been agreed by the Directors Board as the appropriate way to achieve strengthened governance around decisions relating to investments.

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

6.1 The Council is committed to good decision making and the introduction of this Advisory Panel ensures that the Leader/Cabinet has access to informed and cross-party advice relating to the council's current and future investments. The Advisory Panel further fulfils the aims and desired outcomes of the Council's Improvement Recovery Plan.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Interim Director of Finance and Section 151 Officer

The establishment of this advisory panel is an important step in the mechanism for monitoring and reporting investment and property issues, as required by the terms of the central government intervention. It adds a check and balance to the financial investment decisions of the Cabinet/Leader, allowing expertise and diverse viewpoints to be considered before decisions are made. The cost of supporting the Panel would be met through the existing officer body. The payment of any co-optee allowances (mentioned in 3.1) would need to be made with consideration to ongoing budget pressures the Council is facing. The Independent Remuneration Panel, due to meet in July 2023, could be asked to recommend an allowance level that it felt appropriate for the role(s).

7.2 Legal

Implications verified by: **Mark Bowen**
Interim Head of Legal Services

Advisory Committees can be set up under the provisions of section 102(4)) of the Local Government Act 1972. The relevant statutory provision is set out in paragraph 2.2 of this report. An advisory committee which advises the Leader or Cabinet will not be an decision making body as defined by regulation 2 of The Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012 and as a consequence those regulations will not apply to its operation. However advisory committees are not excluded from the provisions of Part VA of the Local Government Act

1972 which deals with access to information as section 100E 3 (a) provides that those provisions apply to

“a committee which ... is appointed by one or more principal councils under section 102 ...”

7.3 **Diversity and Equality**

Implications verified by: **Rebecca Lee**
Team Manager – Community Development and Equalities

Any co-optees appointed to this panel would need to reflect the financial, property or other expertise required to ensure good governance. There are no further implications for this report.

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

The introduction of a further committee adds to the busy calendar of meetings and adds pressure to the committee support that covers formal public Member meetings. The Cabinet may wish to consider the introduction of the Panel within the context of the wider committee structure and any potential future recommendations of the Constitution Working Group regarding the committee structure.

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):

- The Improvement Recovery Plan

9. **Appendices to the report**

- Appendix 1 – Terms of Reference for the Strategic Investment Advisory Panel

Report Author

Matthew Boulter

Democratic Services Manager

Legal Services