



Please ask for: Democratic Services
Direct Dial: (01892) 554413
E-mail: committee@tunbridgewells.gov.uk
Date: Friday 23 September 2022

Dear All

OVERVIEW AND SCRUTINY COMMITTEE – THURSDAY 29 SEPTEMBER 2022

I enclose, for consideration at the next meeting of the Overview and Scrutiny Committee on Thursday 29 September 2022, the following items that were unavailable when the agenda was published.

Agenda No	Item
------------------	-------------

5	Minutes of the meeting dated 27 July 2022 (Pages 2 - 9)
---	--

To approve the minutes of a previous meeting as a correct record. The only issue relating to the minutes that can be discussed is their accuracy.

7	Review of the process of budget forecasting (Pages 10 - 14)
---	--

To receive a presentation from the Head of Finance and to consider any further actions.

8	Update on Planning Enforcement (Pages 15 - 19)
---	---

To receive a presentation from the Head of Planning and to consider any further actions.

9	Update on the Contracts Task and Finish Group (Pages 20 - 26)
---	--

To receive an update on the work of the Contracts Task and Finish Group and to consider any further actions.

Kind regards,

Mark O'Callaghan
Scrutiny and Engagement Officer

Encs

TUNBRIDGE WELLS BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

MINUTES of the meeting held at the Council Chamber, Town Hall, Royal Tunbridge Wells, TN1 1RS, at 6.30 pm on Wednesday, 27 July 2022

Present: Councillor Seán Holden (Chair)

Councillors Atkins, Britcher-Allan, Knight, Le Page, Morton, Ms Palmer and Rogers

Officers in Attendance: Jane Clarke (Head of Policy and Governance), Lee Colyer (Director of Finance, Policy and Development (Section 151 Officer)), Terry Hughes (Community Safety Manager), Claudette Valmond (Head of Legal Partnership and Interim Monitoring Officer) and Mark O'Callaghan (Scrutiny and Engagement Officer)

Other Members in Attendance: Councillors Bailey, Barrass, Brice, Dawlings, Fitzsimmons, Hayward, Hill, Pound, Rutland and Wormington

APOLOGIES FOR ABSENCE

OSC14/22 Apologies for absence were received from Councillors Ellis, Goodship, Johnson and McMillan.

DECLARATIONS OF INTEREST

OSC15/22 Councillor Atkins declared an Other Significant Interest in item OSC19/22 – Items Called-In. Specifically that he had helped organise the Paddock Wood petition related to parking charges which were the subject of the Call-In.

No disclosable pecuniary or further other significant interests declared at the meeting.

DECLARATIONS OF A PARTY WHIP

OSC16/22 There were no declarations that any member was subject to a party whip.

NOTIFICATION OF PERSONS REGISTERED TO SPEAK

OSC17/22 Councillors Hayward, Pound and Rutland were in attendance to present the response to the Call-In on behalf of the Cabinet in respect of item OSC19/22.

The following members of the public were registered to speak in respect of OSC19/22 – Items Called-In:

- County Councillor Hamilton (Kent County Council, Tunbridge Wells Rural Division),
- Parish Councillor Flashman (Paddock Wood Town Council)
- Mr Richard Barsley (Paddock Wood resident and chair of the business association)

The following Visiting Members were registered to speak in respect of OSC19/22 – Items Called-in:

- Councillor Bailey
- Councillor Barrass
- Councillor Wormington
- Councillor Hill

MINUTES OF THE MEETING DATED 27 JUNE 2022

OSC18/22 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 27 June 2022 be approved as a correct record.

ITEMS CALLED- IN

OSC19/22 The Chairman explained the Call-In process.

Councillor Atkins, having earlier made a declaration of interest, left the room.

Councillor Holden presented the Call-In. Comments included:

- The Cabinet had failed to live up to its own pledge to be open and transparent having failed to consult with affected people before getting to the point of making the decision.
- The late consultation, as added to the process after the fact, did not address the full range of cost increases, green waste and cemetery charges for example.
- Presenting a consultation after the intent had been made evident would be biased and be perceived as a fait accompli.
- The changes appeared motivated solely in the interest of the council's finances and there was no indication of consideration of the effect on the interests of residents or the wider economy.
- There was no analysis on the potential impact on footfall in the town centres affecting businesses facing recession or on residents facing a cost-of-living crisis.
- Cabinet should restart the process with a genuine and qualitative consultation considering the impact on others before formulating its proposals.

In answer to questions to Councillor Holden, comments included:

- The consultation announced by the Cabinet was inadequate as it would produce different results to those that might be received at the start of a genuine process, so the Cabinet should be asked to restart the whole process.
- Consultation should be standard practice when increasing costs on residents.

Councillors Rutland, Pound and Hayward presented the response to the Call-In from the Cabinet. Comments included:

- The Cabinet recognised the strength of feeling surrounding this matter and had launched a four-week public consultation. Public meetings would also be held in Southborough and Paddock Wood.
- A full report on the results of the consultation would be considered by the Finance and Governance Cabinet Advisory Board ahead of Cabinet.
- The Cabinet were listening to residents.
- The proposed charges were in accordance with the Partnership's agreed priority to safeguard the finances which was in the best interests of the public.
- There was no legal obligation for the Cabinet to consult. The Cabinet's deficit reduction plan worked within the parameters of what had already been agreed by Full Council. Nevertheless, the Cabinet had chosen to consult.

- The Partnership had inherited a budget deficit of £944k in year 2022/23 and £2.6m in year 2023/24. The Council could no longer absorb the inflationary pressure it was under.
- The longer the delay in tackling the deficit the worse the problem became.
- The Council's auditors had noted that the deficit accumulated over five years would amount to £20.7m if left unmanaged.
- Protecting the Council's finances was essential to protect vital public services.
- Cabinet would carefully consider the results of the consultation and welcome any alternative savings or sources of income.
- Cabinet would endeavour to better engage and communicate in future.
- No consultation was undertaken when car park fees were last raised in 2017.
- Appendix H to the Cabinet report showed comprehensive research of comparable charges throughout Kent. The charges proposed in Tunbridge Wells were within the ranges of similar sites in other boroughs.
- Parking charges had not been raised since 2017 since which the compound rate of inflation was 16.39 per cent. Therefore all proposed increases, except for Dunorlan Park, were well below inflation rates and represented a real-terms decrease.
- Securing revenue in line with the Medium Term Financial Strategy remained vital for balancing the budget annually and supporting all the services provided by the Council.
- It was a misconception that parking charges were directly related to usage. There was no evidence of a link and it was generally accepted in the parking industry that charges did not affect a person's decision where to live, work or visit. Other factors such as attractiveness and convenience were important.
- There had been no sudden change in car park usage in 2012 or 2017 when charges were previously increased. Also, previous discount schemes had not increased usage.
- A decision had not been made on parking charges.
- Not undertaking a consultation on a matter for which it was not constitutionally necessary was not valid grounds for a Call-In.
- Councillor Holden had not taken the opportunity to discuss any of the stated concerns at the Finance and Governance Cabinet Advisory Board meeting prior to the previous Cabinet meeting.
- The Call-In was frivolous and politically motivated.

In answer to questions to the Cabinet, comments included:

- A decision on some of the proposed charges had been made at the Cabinet meeting but the parking charges specifically had not yet been decided.
- The Cabinet were not suppressing the related petition, in fact they welcomed it being considered that this meeting. The decision to delay the petition had not been made by the Cabinet.
- Consultation was not considered necessary before, but the Cabinet had listened to the public reaction. Not consulting earlier was regrettable.
- The new Cabinet was on a steep learning curve and would do better in future.

- The significant size of the deficit had caused a sense of urgency.
- Given that prices had not increased in five years and the proposed increase was lower than inflation, the increase was not deemed significant enough to justify an economic impact assessment. Accurate impact data would be able to be collected once any increases were introduced rather than relying on inaccurate projections.
- The main problems being talked about by residents and businesses were congestion and the attractiveness of town centres, not parking charges.
- It was not viable to conduct an economic impact assessment for every change in costs.
- The Medium Term Financial Strategy assumed an annual increase in fees of 3 per cent. This had not been applied to parking charges over the past five years by the previous administration.

The Monitoring Officer confirmed that the petition which had been expected to be considered at this meeting had been referred to Full Council because the number of signatures crossed the specified threshold. Consideration in another forum could be subject to challenge.

The following persons were registered to speak:

- County Councillor Sarah Hamilton
- Mr Richard Barsley
- Councillor Bailey
- Councillor Barrass
- Councillor Wormington
- Councillor Hill
- Parish Councillor Flashman

Comments included:

- The concerns of residents and businesses were real and not frivolous.
- No evidence had been presented for there being no link between parking charges and usage.
- Each town had unique circumstances which local people were best placed to comment.
- Town centres were particularly fragile at the present time.
- No impact assessment had been carried out.
- When free parking was previously reduced from two to one hour in Paddock Wood there had been a decrease in the number of visitors to the town centre.
- The lack of consultation was contrary to the new administration's own pledge to engage and communicate.
- Increasing parking charges would be damaging to businesses which was counter to the Partnership's goal of vibrant town centres and communities.
- The changes were not restricted to charges but included a change to the structure of charging, the loss of free parking deserved proper consultation.
- The proposed changes were discovered by chance rather than being properly communicated with very little time to respond.
- There had previously been comprehensive consultation over the changes to free parking. Businesses and parish councils had been

engaged to consider alternatives and come up with a mutually acceptable proposal.

- The hastily constructed consultation was heavily loaded, amounting to a threat to put up council tax.
- The process should be restarted.
- Even borough councillors had not been consulted, local representatives only learnt of the proposals when published in the agenda for the Finance and Governance Cabinet Advisory Board.
- The published report stated that the proposals had been agreed internally without consultation.
- Increased maintenance costs of EV charging points in Paddock Wood, cited as part of the justification for increasing charges, had not be substantiated despite several such requests.
- The Cabinet had only six-months to close a nearly £1m budget deficit. There was insufficient time to undertake a full consultation and impact assessment process.
- The Cabinet's actions had been reasonable and necessary given the circumstances.
- The Cabinet had ignored the Tunbridge Wells Agreement which framed the working relationship between the borough and local councils.
- There had been no notification of the town and parish councils that changes were being proposed and no consultation.
- The Tunbridge Wells Agreement stated that the principle forum for engagement between borough and local councils would be the quarterly Parish Chairmen's Group. One meeting had been held since the change in administration and there had been no mention of parking charges.
- The Agreement also stated that local councils would be informed of all consultations on services in their area and, so far as is practicable, consult with local council on all aspects, development, implementation and review of the services.
- The consultation would be held over the summer holidays for shorter than normal period of four-weeks, with no explanation, contrary to the minimum six-weeks and agreed notification requirements as set out in the Agreement.
- The previous reduction from two to one hour free parking in Paddock Wood had been justified by increased maintenance costs but very little maintenance had taken place since.
- New EV charging units in Paddock Wood were being installed by Kent County Council for commercial use so it was not fair for the maintenance to be passed on to Paddock Wood residents.
- Loss of one-hour free parking would impact on visitors to the town centre and undoubtedly increase illegal parking in the town centre which had long been ignored by the borough council. No assessment of the impact of illegal parking had been contained in the report to Cabinet.
- The consultation should have taken place before the proposals were finalised.

In answer to questions from members of the committee to officers, comments included:

- Appendix B to the Cabinet report set out what the charges would have been if they had been increased in line with inflation in

previous years. In the majority of cases, the proposed charges are lower than if they had been indexed.

- Comments provided in the final column of Appendix B to the Cabinet report were only a summary to assist the reader with the circumstances relevant to the particular car park.
- The Tunbridge Wells Agreement was not legally binding upon the Cabinet.
- Changes to fees and charges were not usually consulted on except where required by legislation, as in the case of the proposed new charges for Dunorlan Park.
- The introduction of new parking charges, as at Dunorlan Park, required consultation with statutory consultees, for example Kent County Council as the Highways Authority.
- Amendments to existing charges, including free parking periods, did not require statutory consultation.
- Officers had prepared the Cabinet report "In-Year Budget Review 2022/23". The 'Inherited Deficit Reduction Plan' was a statement from the new Borough Partnership.
- The In-Year Budget Review did identify a budget deficit, which had been approved by Full Council in February 2022, and noted that the Borough Partnership had stated its desire to reduce the budget deficit in year, rather than wait for the full-year budget. This necessitated bringing forward the Fees and Charges report which would generate six-months of additional revenue.
- If the proposed charges were implemented, they would then form the new base level on which the next budget would be calculated.
- The next budget, as a whole, would be subject to consultation.

Debate by members included:

- There had been no need for consultation as the charges were going down in real terms (compared to inflation).
- The Cabinet had failed in their own promise to consult and the consultation now underway was insufficient.
- There was no constitutional requirement to consult therefore the grounds for the Call-In had not technically been broken.
- Cabinet had undertaken to consult better in future.
- It may be the case that consultation was not technically required but the impact on residents needed to be understood.
- Increases less than the RPI were still increases.
- The focus should be on the impact on residents, not the council's budget.
- The Cabinet had recognised that it had been a mistake not to consult.
- Not consulting parish and town councils was wrong and contrary to the Tunbridge Wells Agreement.
- The Cabinet had followed the constitutional requirements and precedent set by the previous administration.
- Not all residents were car owners so not everyone would be affected by the increased costs. The council had a duty to protect the services for all residents.
- Cabinet had already commenced a consultation. It was unnecessary to refer the matter back to Cabinet.
- The cause of the Call-In was not frivolous.

- The Council had previously worked with local residents and parish councils to find mutually acceptable solutions to parking issues.
- Technical arguments were avoiding the real issue that the Cabinet had shut out the people most affected by their decision.

Councillor Holden moved, and Councillor Ms Palmer seconded, that the Cabinet decision “Sales, Fees and Charges (including Car Parking) 2022/23” made on 20 July 2022 be referred back to Cabinet with a recommendation that they consider reopening the whole question with a fair and adequate consultation before the decision is confirmed and also there should be an adequate impact assessment of the effect on businesses in the borough, particularly retail businesses.

Councillor Ms Palmer requested a recorded vote.

Members who voted for the motion: Councillors Holden and Ms Palmer. (2)

Members who voted against the motion: Councillors Britcher-Allan, Knight, Le Page, Morton and Rogers. (5)

Members who abstained from voting: None

MOTION NOT CARRIED

Councillor Rogers moved, and Councillor Britcher-Allan seconded, that no further action be taken on the Call-In of Cabinet decision “Sales, Fees and Charges (including Car Parking) 2022/23” made on 20 July 2022.

The Chair took a vote by show of hands. Votes for the motion: 5. Votes against the motion: 2.

RESOLVED – That no further action be taken on the Call-In of Cabinet decision “Sales, Fees and Charges (including Car Parking) 2022/23” made on 20 July 2022.

FOLLOW-UP ON ACTIONS FROM THE REVIEW OF THE COMMUNITY SAFETY PARTNERSHIP PLAN 2022/23

OSC20/22 Terry Hughes, Community Safety Manager, introduced the report set out in the agenda.

Answers to questions included:

- Environmental Visual Audits were important to generate additional safety measures (including cutting back of foliage and clear space around lighting) which could be put in place.
- Mapping of incident sites was not particularly accurate using the Home Office reporting tool but report should give enough indicators to highlight areas where a visual audit could take place.
- Plans for a local reporting tool for incidents of violence against women and girls were now part of the Community Safety Action Plan to be assessed by the quarterly Board meeting – a local tool had been put off to allow the Home Office tool and the Kent Police tool to receive a fair trial.

- A separate report on foliage cutting and street lighting clearing might not be as straight forward as it might seem, an incident report might refer to several factors which would need to be assessed. The most effective response would be a commitment for an officer to review each of the reports to produce a prioritised list where interventions would make the greatest effect.
- The current Safer Streets tool was created by the Home Office and can be accessed on the Kent Police website. It was expected that the tool would remain available for several years but it was not open to amendment.

Comments in debate included:

- It would be useful to have a further update in six months reporting on progress towards a local version of the Safe Streets app.
- The Community Safety Partnership Plan on which this report was based was agreed at the committee's meeting in April 2022 subject only to the queries now answered.
- The Partnership Plan was reviewed annually.
- This report resolved all outstanding matters.

RESOLVED – That the report be noted.

CONTRACTS TASK AND FINISH GROUP UPDATE

OSC21/22 Mark O'Callaghan, Scrutiny and Engagement Officer, introduced the report set out in the agenda.

The report was taken as read.

RESOLVED –

1. That the membership of the Contracts Task and Finish Group be: Councillors Ellis (Chair), Holden, Le Page, McMillan, Morton.
2. That the report be noted.

WORK PROGRAMME

OSC22/22 The Work Programme was presented for information.

Comments included:

- The new Head of Planning would be in post by the time of the next meeting and was expected to attend for the item on Planning Enforcement.
- The item on Planning Enforcement should proceed with urgency regardless of the attendance of the Head of Planning.

URGENT BUSINESS

OSC23/22 There was no urgent business for consideration.

DATE OF THE NEXT MEETING

OSC24/22 The next meeting was scheduled for Monday 26 September 2022.

NOTE: The meeting concluded at 8.35 pm.

Review of the process of budget forecasting

For Overview and Scrutiny Committee on Thursday 29 September 2022.

Summary

Lead Member: Councillor Christopher Hall – Cabinet Member for Finance and Performance

Lead Director: Lee Colyer – Director of Finance, Policy and Development

Head of Service: Jane Fineman – Head of Finance, Procurement and Parking

Lead Reporting Officer: Jane Fineman – Head of Finance, Procurement and Parking

Covering Report Author: Mark O’Callaghan – Scrutiny and Engagement Officer

Classification: Public document

Wards Affected: All

Committee Timetable	Date
Overview and Scrutiny Committee	29 September 2022

Recommendations

Officer recommendations:

1. That the Committee consider the report and presentation then determine next steps, which may include one of the options set out in section 2 of the report.

1. Introduction and Background

- 1.1 Under the Overview and Scrutiny Committee's terms of reference set out in Part 3 of the Council's Constitution. The Committee's purpose is, in summary, to a) hold the executive to account and b) to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local residents.
- 1.2 Amongst several specified functions, the Committee has a duty to:
 - 8.4.2.2 Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - 8.4.2.3 Question members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with services plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- 1.3 The committee has been pleased to note that the budget gap for 2021-22 had been closed but was concerned that such a large difference between the forecast spend and the actual spend had developed. To help the committee understand – ahead of the budget setting process for next year – a review was requested to understand the process of budget forecasting. In particular, the committee requests an explanation of the technical process of forecasting the budget and managing the budget on a quarterly basis.
- 1.4 The review, in the first instance, will take the form of a presentation by the relevant Head of Service and question and answer session.
- 1.5 In accordance with the committee's agreed Statement of Principles, the relevant Cabinet Member is also invited to comment and answer questions on any matter within their portfolio.
- 1.6 Committee members may also invite other relevant persons to attend to give evidence or answer questions, notice of this should be given to the Scrutiny Officer in good time to allow such arrangements to be made.

2. Options

- 2.1 Having considered the report, presentation and any related discussion, the Committee may decide what, if anything, it wishes to do next. Options include, but are not limited to:
- 2.2 **To note the report (i.e. no further action)** – The Committee may be satisfied with the reviewed service areas and take no further action on this matter.

- 2.3 **Request further information** – Unresolved matters or matters which require further clarification may be addressed by requesting further details. This may take the form of a written update to the members of the Committee, a members' briefing or a further presentation at a future meeting.
- 2.4 **New lines of enquiry** – The Committee may identify related but different lines of enquiry and seek evidence from alternative sources. These could either be delivered in writing or by attendance at a future meeting. New lines of enquiry will usually be treated as a separate review and it may be necessary or desirable to prepare a related initiation document to ensure clarity in the request.
- 2.5 **Review in 6 – 12 months** – The Committee may request an update from the relevant officer or Cabinet Member in a specified period of time. 12 months would be typical unless there is a specific event or deadline which would make a shorter period desirable.
- 2.6 **Establish a Task and Finish Group** – If examination of outstanding matters or new lines of enquiry would be more involved than a single report or further presentation at a meeting, the Committee may form a Task and Finish Group (TFG). The terms of the reference for a TFG should be clearly defined.
- The Committee may only have two simultaneous Task and Finish Groups.
- 2.7 **Make recommendations** – Recommendations may be made to Cabinet. Recommendation should be explicit and actionable but must be evidence based and should, where necessary, be costed. This would usually be achieved by commissioning a report from relevant officers setting out the evidence collected, the recommendations made and the cross-cutting implications of any proposals. Such a report would be prepared and brought to a future meeting of the Committee for approval prior to being referred to Cabinet.

3. Preferred Option and Reason

- 3.1 This is a matter for the members of the Overview and Scrutiny Committee to decide and no recommendation is provided by this report. The Committee should have regard to the Council's available resources and the prioritisation of the Committee's own work.

4. Consultation on Options

- 4.1 No public consultation has taken place on this matter but this document and any documents referred to therein are publicly available. The public are encouraged to attend meetings and, subject to giving due notice, comment on any matter under consideration by the Committee.

5. Implementation

- 5.1 The decision of the Committee will be communicated to relevant persons and published through the minutes.
- 5.2 If the Committee was to request a review or instruct a TFG, this should include expected timelines.

6. Appendices and Background Documents

Appendices:

- None

Exempt appendices (if any):

- None

Background Papers:

- None

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Overview and Scrutiny Committee has the power to establish a task and finish group on any matter that it feels is affecting residents of the borough, without Cabinet approval, but does not have decision making powers in terms of staffing or resources. As such any recommendations it makes will ultimately need to be referred to the relevant decision maker for approval.

There are no direct legal implications arising from this report, however further reports will be required to give effect to the option adopted and legal input will be provided at the appropriate time in respect of such reports.

There are no consequences arising from this report that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.

B. Finance and Other Resources

There are no direct financial implications as a result of the options within this report. There is no specific budget for the Committee. However, the Committee is resourced to undertake a maximum of two concurrent Task and Finish Groups. Any substantive recommendations of the Committee would be subject to separate consideration of any financial implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

C. Other implications (Staffing, Risk Management, Environment and Sustainability, Community Safety, Equalities, Data Protection, Health and Safety, Health and Wellbeing)

There are no direct, significant implications as a result of the options within this report. Any substantive recommendations of the Committee would be subject to separate consideration of any relevant implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

Update on Planning Enforcement

For Overview and Scrutiny Committee on Thursday 29 September 2022.

Summary

Lead Member: Councillor Hugo Pound – Cabinet Member for Housing and Planning

Lead Director: Lee Colyer – Director of Finance, Policy and Development

Head of Service: Carlos Hone – Head of Planning

Lead Reporting Officer: Carlos Hone – Head of Planning

Covering Report Author: Mark O’Callaghan – Scrutiny and Engagement Officer

Classification: Public document

Wards Affected: All

Committee Timetable	Date
Overview and Scrutiny Committee	29 September 2022

Recommendations

Officer recommendations:

1. That the Committee consider the report and presentation then determine next steps, which may include one of the options set out in section 2 of the report.

1. Introduction and Background

- 1.1 At its meeting on 22 November 2021 the committee received a presentation on the council's Planning Enforcement service. The presentation was introduced by the Development Manager and supported by the former Head of Planning.
- 1.2 Immediately following the presentation the committee resolved to take no further action. However, later in the year the committee were concerned of reports that service level expectations were not being met and requested a further update on the service from the new Head of Planning.
- 1.3 In addition to any information the officers feel is relevant, the committee identified the following lines of enquiry it wished to address, these were expressed in the form of questions:
 - a) How many officers does TWBC have and length of service?
 - b) Are there any vacancies?
 - c) Does TWBC have a specific Tree Officer?
 - d) How many complaints are received and how many are investigated?
 - e) What is the average time from complaint or issue to site investigation?
 - f) What percentage of complaints or issues are dealt with by just a letter? How many entail a site visit? How many have an enforcement notice? How many enforcement actions are pursued?
 - g) How many notices are served monthly? What percentage is that of complaints?
 - h) How many enforcements take place? What types of enforcement has taken place over the last year?
 - i) Do you have any comparative data from other local boroughs?
 - j) How many breaches took place in conservation areas? How many TPO have been issued and how many breached?
- 1.4 The above questions were shared with the relevant officers prior to the publication of this report.
- 1.5 The review, in the first instance, will take the form of a presentation by the relevant Head of Service and question and answer session.
- 1.6 In accordance with the committee's agreed Statement of Principles, the relevant Cabinet Member is also invited to comment and answer questions on any matter within their portfolio.

- 1.7 Committee members may also invite other relevant persons to attend to give evidence or answer questions, notice of this should be given to the Scrutiny Officer in good time to allow such arrangements to be made..

2. Options

- 2.1 Having considered the report, presentation and any related discussion, the Committee may decide what, if anything, it wishes to do next. Options include, but are not limited to:
- 2.2 **To note the report (i.e. no further action)** – The Committee may be satisfied with the reviewed service areas and take no further action on this matter.
- 2.3 **Request further information** – Unresolved matters or matters which require further clarification may be addressed by requesting further details. This may take the form of a written update to the members of the Committee, a members' briefing or a further presentation at a future meeting.
- 2.4 **New lines of enquiry** – The Committee may identify related but different lines of enquiry and seek evidence from alternative sources. These could either be delivered in writing or by attendance at a future meeting. New lines of enquiry will usually be treated as a separate review and it may be necessary or desirable to prepare a related initiation document to ensure clarity in the request.
- 2.5 **Review in 6 – 12 months** – The Committee may request an update from the relevant officer or Cabinet Member in a specified period of time. 12 months would be typical unless there is a specific event or deadline which would make a shorter period desirable.
- 2.6 **Establish a Task and Finish Group** – If examination of outstanding matters or new lines of enquiry would be more involved than a single report or further presentation at a meeting, the Committee may form a Task and Finish Group (TFG). The terms of the reference for a TFG should be clearly defined.
- The Committee may only have two simultaneous Task and Finish Groups.
- 2.7 **Make recommendations** – Recommendations may be made to Cabinet. Recommendation should be explicit and actionable but must be evidence based and should, where necessary, be costed. This would usually be achieved by commissioning a report from relevant officers setting out the evidence collected, the recommendations made and the cross-cutting implications of any proposals. Such a report would be prepared and brought to a future meeting of the Committee for approval prior to being referred to Cabinet.

3. Preferred Option and Reason

- 3.1 This is a matter for the members of the Overview and Scrutiny Committee to decide and no recommendation is provided by this report. The Committee should have regard to the Council's available resources and the prioritisation of the Committee's own work.

4. Consultation on Options

- 4.1 No public consultation has taken place on this matter but this document and any documents referred to therein are publicly available. The public are encouraged to attend meetings and, subject to giving due notice, comment on any matter under consideration by the Committee.

5. Implementation

- 5.1 The decision of the Committee will be communicated to relevant persons and published through the minutes.
- 5.2 If the Committee was to request a review or instruct a TFG, this should include expected timelines.

6. Appendices and Background Documents

Appendices:

- None

Exempt appendices (if any):

- None

Background Papers:

- None

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Overview and Scrutiny Committee has the power to establish a task and finish group on any matter that it feels is affecting residents of the borough, without Cabinet approval, but does not have decision making powers in terms of staffing or resources. As such any recommendations it makes will ultimately need to be referred to the relevant decision maker for approval.

There are no direct legal implications arising from this report, however further reports will be required to give effect to the option adopted and legal input will be provided at the appropriate time in respect of such reports.

There are no consequences arising from this report that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.

B. Finance and Other Resources

There are no direct financial implications as a result of the options within this report. There is no specific budget for the Committee. However, the Committee is resourced to undertake a maximum of two concurrent Task and Finish Groups. Any substantive recommendations of the Committee would be subject to separate consideration of any financial implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

C. Other implications (Staffing, Risk Management, Environment and Sustainability, Community Safety, Equalities, Data Protection, Health and Safety, Health and Wellbeing)

There are no direct, significant implications as a result of the options within this report. Any substantive recommendations of the Committee would be subject to separate consideration of any relevant implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

Update on the Contracts Task and Finish Group

For Overview and Scrutiny Committee on Thursday 29 September 2022.

Summary

Lead Member: Councillor Mark Ellis – Chair of the Contracts Task and Finish Group

Lead Director: Paul Taylor – Director of Change and Communities

Covering Report Author: Mark O’Callaghan – Scrutiny and Engagement Officer

Classification: Public document

Wards Affected: All

Committee Timetable	Date
Overview and Scrutiny Committee	27 July 2022
Document review	August 2022
Contracts Task and Finish Group (meeting with Director of Change and Communities)	24 August 2022
Contracts Task and Finish Group (Interviews meeting)	6 September 2022
Interim Report Drafting session	13 September 2022
Draft Interim Report circulated	18 September 2022
Overview and Scrutiny Committee	29 September 2022

Recommendations

Officer recommendations:

1. That the Committee confirms the membership of the Task and Finish Group as: Councillors Ellis (Chair), Holden, Le Page, McMillan, Morton and Rogers; and
2. That the Committee notes the Interim Report as set out at Appendix A to the report.

1. Introduction and Background

- 1.1 This report follows the update given at the meeting of the Overview and Scrutiny Committee on 27 July 2022.
- 1.2 This report serves two purposes. 1) to correct a mistake in the previous report; and 2) to provide an update on the work of the Task and Finish Group.
- 1.3 The report considered at the committee meeting on 27 July contained a mistake which lead to an omission being made in the related resolution of the committee. The body of the report referred to Councillor Rogers as joining the Task and Finish Group but omitted her from the list of appointees. Therefore, this report seeks to rectify this error by confirming the appointment of Councillor Rogers to the Contracts Task and Finish Group.
- 1.4 Since the last committee meeting, members of the Task and Finish Group have worked on the review and prepared the attached interim report (Appendix A).

2. Options

- 2.1 Councillor Rogers has been participating in the work of the Task and Finish Group therefore her formal appointment is highly recommended.
- 2.2 Without prejudice to any other decision the Committee may wish to make, the Committee is asked to note the interim report.
- 2.3 The Committee is at liberty to disregard these recommendations and to instruct the Task and Finish Group to pursue an alternative course of action.

3. Preferred Option and Reason

- 3.1 The Task and Finish Group believes that the work so far undertaken by the Group fulfils the expectations of the Committee and offers a practical and effective way forward.

4. Consultation on Options

- 4.1 No public consultation has taken place on this matter but this document and any documents referred to therein are publicly available. The public are encouraged to attend meetings and, subject to giving due notice, comment on any matter under consideration by the Committee.

5. Implementation

- 5.1 The decision of the Committee will be communicated to relevant persons and published through the minutes.

6. Appendices and Background Documents

Appendices:

- Appendix A – Interim Report of the Contracts Task and Finish Group

Exempt appendices (if any):

- None

Background Papers:

- None

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Overview and Scrutiny Committee has the power to establish a task and finish group on any matter that it feels is affecting residents of the borough, without Cabinet approval, but does not have decision making powers in terms of staffing or resources. As such any recommendations it makes will ultimately need to be referred to the relevant decision maker for approval.

There are no direct legal implications arising from this report, however further reports will be required to give effect to the option adopted and legal input will be provided at the appropriate time in respect of such reports.

There are no consequences arising from this report that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.

B. Finance and Other Resources

There are no direct financial implications as a result of the options within this report. There is no specific budget for the Committee. However, the Committee is resourced to undertake a maximum of two concurrent Task and Finish Groups. Any substantive recommendations of the Committee would be subject to separate consideration of any financial implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

C. Other implications (Staffing, Risk Management, Environment and Sustainability, Community Safety, Equalities, Data Protection, Health and Safety, Health and Wellbeing)

There are no direct, significant implications as a result of the options within this report. Any substantive recommendations of the Committee would be subject to separate consideration of any relevant implications.

Mark O'Callaghan, Scrutiny and Engagement Officer, 21 September 2022.

Contracts Task and Finish Group (Overview and Scrutiny Committee)

Interim Report to be delivered September 2022

Executive Summary

How might the council improve the delivery of major contracts?

- Is the council procuring and running third-party service contracts as efficiently and effectively as possible?
- Are all feasible alternatives being considered during procurement?
- What improvements can be made to increase resident and other stakeholder confidence in service provision?
- What improvements can be made to increase Member involvement in relevant policy-making and the selection of third-party suppliers?
- Once a supplier has been selected, how we can ensure effective scrutiny of the service provider and enforcement of the contract when breaches have been identified.

Background to the issue:

The council has several large (in proportion of overall spending) and long-term contracts with third parties including:

- parks and sports pitch maintenance
- sports centre operation
- waste and recycling.

The services associated with these contracts are high profile with residents and other stakeholders and there are one or more examples of questionable or variable service delivery quality associated with these contracts.

There is also the impression that suppliers are unable to be fully held to account for service quality, or that holding them to account might put service delivery at risk.

Many council services are procured from external providers rather than delivered by in-house staff.

The Overview and Scrutiny Committee believe that O&S is the most suitable channel for this work with its ability to look across portfolios and directorates at the end-to-end process of securing and running third party service contracts.

The task and finish group will aim to understand the following broad topics with the aim of improving outcomes for residents and other stakeholders:

- Existing policy and policy options the council might consider in future and the pros and cons of these options.
- Procurement regulations, constraints and available room for flexibility.
- How third-party contracts are managed post contracting and options for improvement.

Contextual consideration such as staffing, skills and budget constraints, pandemic implications, medium term economic implications, market implications, effects of inflation and future economic outlook Lines of enquiry will include:

Line of enquiry

- How members might become more involved in shaping procurement policy and in particular shaping the Social Value of contracts including local/regional supplier inclusion and minimum standards applied for staff benefits within the supplier.
- What changes might be desirable with a more flexible procurement environment.
- The effectiveness of the Council in negotiating and managing third party contracts with sophisticated national and multi-national suppliers.
- The effectiveness of the Council in shaping KPIs and SLAs on large contracts.
- How well contracts are 'snagged' early in their implementation.
- The effectiveness of the Council in reviewing contract performance and acting on such reviews.
- The efficacy of the end-to-end process of securing and running third party services whereby the procurement function is separated from the service delivery functions.
- How contract remediation is managed and might be improved.

The line of enquiry based for the current O&S Task and Finish Group

Due to a change of membership from the group who established the contracts review, current members have undertaken the following information gathering process.

Appendix A

- We have taken the Fusion Contract and subsequent extensions in order to review the process.
- Reviewed documentation on the original contract and extensions and have had opportunity to question officers on the process related to Fusion and other major contracts undertaken by the council.
- Members interviewed, Gary Stevenson (Officer responsible for the day to day management of the Fusion Contract), Dan Hutchings (Procurement Manager), Paul Taylor (Director of Change and Communities), Lucinda MacKenzie-Ingle (Practice Area Team Leader- Contracts and Commissioning Mid Kent Legal)
- Members have additionally reviewed presentations by Dan Hutchins to O & S.

Recommendations

The objective is to produce our recommendations in the November Overview and Scrutiny Meeting.

As a group our position is to provide greater member scrutiny for members to review tenders in greater depth working than the current process.