

A G E N D A

FINANCE & GOVERNANCE CABINET ADVISORY BOARD

Tuesday 20 March 2018 at 6.30 pm
Committee Room A, Town Hall, Royal Tunbridge Wells, TN1 1RS

Members: Councillor Reilly (Chairman), Councillors Horwood (Vice-Chairman), Chapelard, Dawlings, Gray, Heasman, Holden, Jukes, Lewis-Grey, Munn and Uddin

Quorum: 3 Members

1 Apologies for Absence

2 Declarations of Interests

To receive any declarations of interest by members in items on the agenda. For any advice on declarations of interest, please contact the Monitoring Officer.

3 Notification of Visiting Members Wishing to Speak

Members of the Council should indicate which item(s) they wish to speak on and the nature of their concern/question/request for clarification (in accordance with Council Meeting Procedure Rule 18).

4 Minutes of the Previous Meeting

The Chairman will move that the minutes of the previous meeting, dated 6 February 2018, be signed as a correct record. The only issue relating to the minutes that can be discussed is their accuracy.

(Pages 5 - 12)

In accordance with Council Meetings Procedure Rule 16.1, the Chairman will sign the minutes of today's proceedings at the next scheduled meeting.

5 Finance and Governance Cabinet Advisory Board - Work Programme

(Pages 13 - 14)

6 Urgent Business

The Democratic Services Officer will advise if there have been any urgent items of business which have arisen for the Board's consideration since publication of the agenda.

7 Date of the Next Meeting and Scheduled Items

The date of the next meeting is Tuesday 29 May, at 6.30pm in Committee Room A, at the Town Hall, Tunbridge Wells.

Currently, there are no items scheduled on the Forward Plan (which is subject to change) to be discussed.

EXEMPT ITEM

It is proposed that, pursuant to section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Part I, Schedule 12A of the Act, by virtue of the particular paragraph shown on the agenda and on the attached report: *Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

8 Royal Victoria Place: Variation of Leasehold Interest

(Pages 15 - 44)

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Options that the Cabinet Advisory Board Can Consider

The Cabinet Advisory Board is asked to consider each report and in each case come to a consensus and advise the Cabinet which one of the three options identified below it supports:

1) The Cabinet Advisory Board supports the recommendation(s) in the report.

or

2) The Cabinet Advisory Board supports the recommendation(s) subject to the issues it has identified being taken into account by the Cabinet (any issues identified should be stated and recorded).

or

3) The Cabinet Advisory Board does not support the recommendation(s) on at least one of the following grounds

- 3.1 Inadequate consultation with stakeholders; and/or
- 3.2 Inadequate evidence on which to base the decision; and/or
- 3.3 Insufficient consideration of legal and financial information; and/or
- 3.4 Another reason, as decided by the meeting of the Cabinet Advisory Board.

In each case the final Cabinet report will be amended to outline the option selected by the Cabinet Advisory Board and explain why this option was selected.

All visitors wishing to attend a public meeting at the Town Hall between the hours of **9.00am and 5.00pm** should report to reception via the side entrance in Monson Way. **After 5pm**, access will be via the front door on the corner of Crescent Road and Mount Pleasant Road, except for disabled access which will continue by use of an 'out of hours' button at the entrance in Monson Way

Notes on Procedure

- (1) A list of background papers appears at the end of each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Items marked * will be the subject of recommendations by Cabinet to full Council; in the case of other items, Cabinet may make the decision, subject to call-in (Overview and Scrutiny Procedure Rule 12).
- (3) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (4) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Places are limited to a maximum of four speakers per item. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Committee.
- (5) Please note that this meeting may be recorded or filmed by the Council for administrative purposes. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website (www.tunbridgewells.gov.uk) or from Democratic Services.

- ◇ **If you require this information in another format, please contact us on 01892 526121**
- ◇ **Accessibility into and within the Town Hall - In response to the requirements of the Disability Discrimination Act 1995, the Council has provided the following features to overcome physical barriers to access.**

There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.
- ◇ **Hearing Loop System - The Council Chamber and all the Committee Rooms have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.**

FINANCE & GOVERNANCE CABINET ADVISORY BOARD

Tuesday, 6 February 2018

**Present: Councillor David Reilly (Chairman)
Councillors Horwood (Vice-Chairman), Heasman and Munn**

Officers in Attendance: Jane Clarke (Head of Policy and Governance), Sheila Coburn (Head of Revenues and Benefits), Lee Colyer (Director of Finance, Policy and Development), Jane Fineman (Head of Finance and Procurement), Denise Haylett (Head of Business Support), Patricia Narebor (Head of Legal Partnership), William Tait (Mid Kent Services Support Officer) and Mike McGeary (Democratic Services Officer)

Other Member in Attendance: Councillor Basu

APOLOGIES FOR ABSENCE

FG81/17 Apologies for absence were reported from Councillors Chapelard, Dawlings, Jukes and Uddin.

DECLARATIONS OF INTERESTS

FG82/17 There were no declarations of interest made, within the provisions of the Code of Conduct for Members.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK

FG83/17 There were no other members of the Council who had registered their wish to address the Board within the provisions of Council Meetings Procedure Rule 18.

MINUTES OF THE PREVIOUS MEETING

FG84/17 The minutes of the meeting dated 9 January 2018 were submitted.

RESOLVED – That the minutes of the Board meeting dated 9 January 2018 be agreed.

FINANCE AND GOVERNANCE CABINET ADVISORY BOARD - WORK PROGRAMME

FG85/17 The Board received its work programme for the period up to 31 May 2018, which was based on the issues set out in the Council's Forward Plan.

RESOLVED – That the work programme be noted.

CIVIL PENALTIES - REVENUES AND BENEFITS

FG86/17 Sheila Coburn, the Head of Revenues and Benefits, reported on a proposed 'civil penalties policy' the aim of which was to ensure that recipients of Council Tax exemptions/discounts, Council Tax Support and Housing Benefit supplied correct and up-to-date information. She added that the proposal was necessary in order to ensure public funds were used correctly and to reduce incidents of error and fraud.

A proposed policy document had been circulated with the agenda, which explained how the system would operate and what levels of penalty would be

imposed, and how an appeals process would operate.

Members of the Advisory Board considered the report and its recommendations and raised the following issues:

- Councillor Munn said that he had no sympathy for claimants who resorted to fraud, but his concern was that the Council should avoid being heavy-handed in applying penalties. He asked what stages would be followed, once it had been established that incorrect information had been provided by a claimant.

Mrs Coburn advised that the existing arrangements already included provision for imposing a penalty charge on claimants but that the authority had not, to date, adopted a formal policy. She said that no penalty would be applied until claimants had been given two opportunities to provide the correct information. However, if the authority had clear evidence that, say, a claimant was not entitled to a single person's discount which was in place, this benefit would be withdrawn and the claimant provided with the opportunity to correct the position.

Councillor Munn asked whether, for example, someone who had claimed Council Tax exemption would then be required to pay Council Tax for the full year and have a penalty charge added on top. Mrs Coburn said that, under normal circumstances, the authority would go back to the beginning of the Council Tax year, advise on the total amount which the resident would be required to pay – spread out across the full period – and if the exemption claimed had been made fraudulently or by a deliberate error, then a penalty charge would be made.

Councillor Munn also sought clarification in the case of someone who had been claiming a single person's discount but who might have a partner who might not live at the property on a permanent basis. He said that, under such circumstances, there might be conflicting statements as to whether it was a single person household or not. He asked if the authority were able to apply some discretion to such circumstances.

Mrs Coburn confirmed that discretion was applied, and added that her team would determine which was the main residence for the single person's discount.

- Councillor Reilly asked what percentage of claimants were considered to be providing incorrect information, either through fraud or deliberate error. Mrs Coburn said that reliable evidence indicated that approximately 30% of claimants provided incorrect information. She added that, of the 15,000 claimants in the Borough, approximately 100 were likely to face a penalty charge.
- Councillor Heasman asked what length of time elapsed before a suspected error or fraudulent claim was challenged. He added that he expected the introduction of Universal Credit to reduce the likelihood of error and also felt that there was a certain level of genuine confusion amongst claimants as to what they were able to claim.

Mrs Coburn said that it was individual circumstances that determined the length of time before claimants were asked to correct their submitted information. But she stressed that the authority would always need to be very clear about fraud or a deliberate error before imposing a penalty.

Councillor Heasman said he was reassured by that response. He suggested that the authority should consider writing to all claimants at the beginning of each new Council Tax year, to ensure the most up-to-date information was being provided. Mrs Coburn said that there was an annual check on the information provided in respect of single person's discount, based upon a credit agency check.

Mrs Coburn also responded to Councillor Heasman's concerns about the confusion that might exist amongst claimants – and potential claimants. She advised that details of the single person's discount and its entitlement were sent out with each year's Council Tax bill.

- Councillor Reilly drew attention to the 'civil penalties' title of the report. He sought an assurance that claimants were not alarmed by the prospect of a penalty being applied, particularly, he said, amongst more vulnerable residents. Mrs Coburn acknowledged the point and confirmed that, where it was known that a claimant was in the 'vulnerable' category, great care would be taken.
- Councillor Munn remained concerned that many of those who would have a penalty imposed would come from the lower income group. He therefore suggested that, if this proposed policy were approved, the amount of penalty should be limited to £70 (as set out) "or 10% of the amount of support/benefit/discount due, whichever is the least".

Mrs Coburn advised that the amount of the penalty was set by the relevant regulations and could not, therefore, be amended. She also said that not all of the claimants were in the lower income group, citing the single person's discount as a case in point.

Based on what he had learnt of the proposed scheme, Councillor Munn said that he was unable to support the recommendation to approve its introduction.

- Councillor Heasman sought an assurance that the Council would allow the penalty charge to be added to the Council Tax account and paid by spreading the cost across not just the 10 month period but a full 12 months. Mrs Coburn said that the terms of the proposed policy would allow penalties to be spread across the remainder of the Council Tax year.

RESOLVED – That the recommendations set out in the report be supported.

MID KENT SERVICES BOARD APPOINTMENTS - OPTIONS

FG87/17 William Tait, the Mid Kent Services Support Officer, reported that the Mid Kent Services Board had resolved to expand its membership by one additional member from each of the three partner authorities. His report set

out a proposed mechanism for how Tunbridge Wells Borough Council could select the additional member.

Members of the Advisory Board considered the report and its recommendations and raised the following points:

- Councillor Heasman asked how many times a year the Mid Kent Services Board met. Mr Tait advised that it met twice a year.
- Councillor Reilly asked what the reasons were for Maidstone Borough Council adopting a different process for selecting the additional Board member from that being followed by Swale and, potentially, Tunbridge Wells. Mr Tait advised that the decision by Maidstone was principally to reflect their political balance, which was very different from Swale and Tunbridge Wells. He added that there was also a view that the Leader of Maidstone Borough Council already had a significant number of appointments within their gift, so that making it a 'Deputy Leader' decision in this case made more sense.

RESOLVED – That the recommendations set out in the report be supported.

CLEANING AND HYGIENE MAINTENANCE CONTRACT TENDER

FG88/17 Denise Haylett, the Business Support Manager, reported that the Borough Council's cleaning and hygiene maintenance contract for a number of its properties was due for renewal from March. She advised on the procedure for the award of a new contract, highlighting the fact that the deadline for the receipt of tenders was 9 February.

Ms Haylett said that the authority was using this opportunity to reduce the number of cleaning and hygiene maintenance contracts across its property assets into a single one. She added that the tenders submitted would be assessed on the basis of 55% quality and 45% cost.

Ms Haylett also advised that there had been a good level of interest in the contract, with 30 companies attending the visit to four of the sites. She added that it was proposed to interview representatives of no more than three companies once the tender evaluation process had been completed in mid-February.

Members of the Advisory Board were provided with a summary of the tender process.

Councillor Munn asked what range and types of property would be covered by the new contract. Ms Haylett said that it would include the Town Hall, Gateway, the Assembly Hall Theatre, the Camden Centre and a range of other Council-owned properties, such as public conveniences and pavilions etc.

RESOLVED – That the recommendation – provided by the verbal report – to agree the most advantageous tender, on the basis of 55% quality and 45% cost, be supported.

PLANNING LEGAL AGREEMENTS ON BEHALF OF TUNBRIDGE WELLS BOROUGH COUNCIL

FG89/17

A report prepared by Karen Fossett, the Head of Planning, was presented by Lee Colyer, the Director of Finance, Policy and Development. Mr Colyer explained that the purpose of the report was to seek the approval of the Cabinet to agree arrangements with other 'local planning authorities' to act on the Borough Council's behalf – should the need arise – in relation to specific legal agreements. He added that the circumstances where this would be relevant were where the Borough Council was either the landowner, or the applicant or the local planning authority and where a Section 106 legal agreement or a 'unilateral undertaking' was necessary.

Mr Colyer advised that this proposal would require a final decision to be taken by the Full Council, on a date which would be confirmed in due course.

Members of the Advisory Board considered the report and its recommendation and raised the following issues:

- Councillor Munn asked whether the outcome of this process was limited to simply providing a legal solution or if the third party authority would be retaining any of the Section 106 funds which might arise. Patricia Narebor, the Head of Legal Partnership, advised that this would depend entirely upon the specific circumstances and the nature of the obligation, both of which would be determined at the time when the requested authority was required to be acted upon.
- Councillor Reilly asked whether this proposal was an opportunity to update the authority's Constitution. Miss Narebor said that, currently, the Head of Planning had specific delegated powers set out in the Constitution; she added that she would review the document to see if the authority now being sought was such that an update of the Constitution was required.
- Councillor Heasman drew attention to the previous Advisory Board meeting, where members had been asked to consider a report on the Southborough Hub, where specific land transfers were being proposed. He asked whether the authority now being sought relating to Section 106 legal agreements and unilateral undertakings had any material effect on the earlier Southborough Hub decision.

Miss Narebor acknowledged that there was an element of crossover between property issues and planning matters; she added that Section 106 legal agreements related purely to planning matters. Miss Narebor said that, if the Southborough Hub issue related to any Section 106 payments, it might lead to a modification being necessary, subject to the views of the planning authority.

Councillor Heasman said that it was important that the Planning Service was kept fully informed on these legal aspects, as it impacted on discussions held with developers during the planning application process.

Before the Board members were asked to agree whether they supported the recommendation or not, Mr Colyer drew attention to a proposed minor amendment. He asked that the words: "...to explore options and (where appropriate) ..." on line three of the recommendation, after "...the Council's

Monitoring Officer ...”.

RESOLVED – That, with the above amendment and noting that the final decision on this will be taken by the Full Council, the recommendation set out in the report be supported.

PERFORMANCE SUMMARY: QUARTER 3

FG90/17 Jane Clarke, the Head of Policy and Governance, presented a summary of the Borough Council’s performance for the third quarter of 2017/18. This was based on the following criteria: (i) the 14 specific projects which were aimed at delivering the Council’s agreed Corporate Priorities for the year; (ii) a number of projects which formed the authority’s ‘Change Programme’ i.e. that focused on improving operational delivery or transforming the way in which services were provided; and (iii) the 39 formal performance indicators across all services (29 of which had targets that could be measured).

Ms Clarke advised that eight of the authority’s Corporate Priority projects had passed all of their milestones at the end of quarter three. She added that, for the remaining six Corporate Priority projects, an update had been provided in Appendix A to the report. Ms Clarke also drew attention to the amendments made to the milestones relating to project nos.5 and 12, as set out in paragraph 3.6 of the report.

With the authority’s Change Programme, Ms Clarke said that three projects were ‘on track’, two were not and two had been completed. An update had been provided for all of the projects in an appendix to the report. Ms Clarke said that the ‘public realm’ scheme had been referred to in both Appendices A and B and would be corrected in time for the report when it was submitted to the Cabinet.

In respect of the Council’s general performance, Ms Clarke advised that: (i) 22 of the 29 performance indicators were ‘performing’ by the quarter-end; (ii) four indicators were ‘underperforming’ and (iii) data was still awaited on three indicators. Details of the recovery plans for the underperforming indicators were set out in an appendix to the report.

Ms Clarke also advised that information was collected on a range of indicators that together provided an indication of the ‘state of the Borough’ for residents. Two of the ten indicators related to Borough Council services directly and had targets set by the authority, both of which had been met during the second quarter. Under this section, Ms Clarke drew particular attention to a 9% increase in the number of people seeking homelessness advice during the past quarter. She said that the additional responsibilities which local authorities faced under new Government legislation in respect of homelessness would have a resource impact.

Members of the Advisory Board considered the report and its recommendations and raised the following issues:

- Councillor Reilly drew attention to Appendix D and the recovery plan for ‘the number of new claims and change of circumstances’ in respect of Housing Benefits. He asked whether there was any impact on new claimants. Sheila Coburn, the Head of Revenues and Benefits, said that new claimants would not be penalised due to this backlog, as all entitlements would be backdated to when the claim was first made.

Councillor Heasman raised a query on the same issue. He asked what the current time period was for processing new claims. Mrs Coburn advised that the team was processing claims within 14.8 days during the last quarter, against a target of 10 days.

- Councillor Heasman also asked for further details on another recovery plan, namely the 'performance on appeals in respect of major applications'. He asked for the site details of the one major application where an appeal had been allowed. Ms Clarke said that she would find out the details and advise Councillor Heasman after the meeting.

RESOLVED – That the recommendations set out in the report be supported.

QUARTERLY FINANCIAL REPORTS - QUARTER 3 (TO 31 DECEMBER 2017)

FG91/17 Jane Fineman, the Head of Finance and Procurement, provided a verbal report on the quarter three position regarding the revenue and capital budgets, as well as a 'treasury and prudential indicator management' update for the same period.

Mrs Fineman began with the treasury management update. She advised that the anticipated out-turn for the year had not changed from quarter two, namely income of £660k for 2017/18. Mrs Fineman added that there had been no breaches under the authority's prudential indicator management during the quarter.

With the authority's revenue management, Mrs Fineman reported an additional £168k saving on the forecast outturn during quarter three, which would lead to a year-end position of £486k under-budget. She provided a summary of the key elements where savings (or additional income) had been achieved. This included the fact that the Council had achieved its full year vacancy factor budget by the end of quarter three.

With the capital budget, Mrs Fineman advised that the year-end forecast had increased by £193k, principally because two items of expenditure had been brought forward from 2018/19. She stressed that this did not have any effect on the Council's reserves.

Members of the Advisory Board considered the verbal update and raised the following issues:

- Councillor Heasman welcomed the positive report that had been provided. First, he asked for further details of how the revenue budget had achieved the additional savings during the quarter. Secondly, he voiced his satisfaction with what had been achieved so far through the Mid-Kent Partnership services, adding that he saw significant benefits in removing the 'internal approach' that had been followed under the pre-MKIP arrangements.

Mrs Fineman said that all of the different elements that made up the £168k revenue underspend in the last quarter would be itemised in the Cabinet report, to be considered on 1 March. She provided details of the key issues that made up that sum.

Councillor Heasman expressed his thanks for the details, adding that his particular interest was in identifying savings that were considered to be permanent reductions in the cost base.

- Councillor Munn picked up on one of the revenue savings which had been mentioned, namely the £55k on posts associated with the delivery of the Development Programme. He asked whether those savings would be part of those earmarked for repaying the loan for the civic development. Mrs Fineman confirmed that this was the case.

RESOLVED – That the verbal recommendations be supported.

URGENT BUSINESS

FG92/17 The Democratic Services Officer advised that there were no additional items for the Board's consideration which had arisen since the publication of the agenda.

DATE OF THE NEXT MEETING AND SCHEDULED ITEMS

FG93/17 It was noted that the next meeting of the Board was scheduled to take place on Tuesday 20 March 2018 at 6.30pm, when the following items would be discussed, based on the current Forward Plan.

- Annual Audit Letter 2016/17
- Debt Recovery Policy

NOTE: The meeting concluded at 7.30 pm.

**FINANCE AND GOVERNANCE CABINET ADVISORY BOARD
WORK PROGRAMME**

April 2018 - July 2018

This work programme sets out the decisions that will be brought to the Cabinet Advisory Board for consultation before the decision is made at the relevant Cabinet meeting. The work programme is linked to the Forward Plan which is updated on a continuous basis.

Further details regarding decisions to be made, or decisions that have been made, including information on consultations and background documents, can be obtained via the Council's website at <http://democracy.tunbridgewells.gov.uk/mgDelegatedDecisions.aspx?bcr=1>

If you have any questions regarding the Council's decision making process please contact Democratic Services at committee@tunbridgewells.gov.uk

Advisory Board	Date of Decision by Cabinet	Report Title, Summary and Ward	Consultation Details	Background papers/materials	Relevant Officer	Portfolio Holder
04/10/16 20/08/18	27/10/16 13/09/18	<p>Linden Park Road Car Park Redevelopment To consider a development opportunity on Council owned property.</p> <p><i>Part of this meeting may be held in private by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended). All Wards</i></p>	The relevant Cabinet Advisory Board will be consulted.		<p>Ian Gifford, Interim Property and Estates Manager</p> <p>John Antoniadis, Acting Property and Estates Manager</p>	Leader of the Council
Finance and Governance Portfolio – Councillor Reilly						
21/08/18	13/09/18	<p>Debt Recovery Policy Policy for the recovery of Council Tax and Business Rate debts. <i>All Wards</i></p>	The relevant Cabinet Advisory Board will be consulted.		Sheila Coburn, Head of Revenues and Benefits	Portfolio Holder for Finance and Governance

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972 (as amended).

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