

KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Council Chamber - Sessions House on Tuesday, 15 January 2019.

PRESENT: Mr A Booth (Chairman), Mr A M Ridgers (Vice-Chairman), Mr M A C Balfour, Mr P V Barrington-King, Mrs P M Beresford, Mrs R Binks, Mr R H Bird, Mr G Cooke, Mrs T Dean, MBE, Mr D Farrell, Mr R C Love, OBE, Dr L Sullivan and Mr J Wright

ALSO PRESENT: Miss S J Carey, Mr P B Carter, CBE, Mrs M E Crabtree and Mr R W Gough

IN ATTENDANCE: Ms Z Cooke (Corporate Director of Finance), Mrs S Hammond (Director of Specialist Children's Services), Mr M Scrivener (Corporate Risk Manager), Mr D Shipton (Head of Finance (Policy, Planning and Strategy)), Mrs A Taylor (Scrutiny Research Officer), Mr B Watts (General Counsel) and Mr D Whittle (Director of Strategy, Policy, Relationships and Corporate Assurance)

UNRESTRICTED ITEMS

43. Introduction/Webcast Announcement

(Item A1)

1. In response to a query the Chairman confirmed that the meeting of Scrutiny Committee would be streamed live over the internet.

44. Apologies and Substitutes

(Item A2)

1. Apologies had been received from Mr Oakford (Mrs Crabtree was substituting) and the two Parent Governors Mr Garsed and Mr Roy.

45. Declarations of Interests by Members in items on the Agenda for this Meeting

(Item A3)

1. Dr Sullivan declared an interest in the Budget item as her husband was employed as an Early Help Worker for Kent County Council.

46. Minutes of the meeting held on 8 November 2018

(Item A4)

1. In response to a query the Chairman confirmed that information relating to the Pupil Premium Select Committee, which was due to be circulated to the Committee, would be chased up outside of the meeting.

RESOLVED that the minutes of the meeting held on 8 November 2018 were a correct record and that they be signed by the Chairman.

47. Draft 2019/20 Budget and the Medium Term Financial Plan. Please can Members bring their copy of the Budget Book 2019-20 to the meeting (Item A5)

Mr Carter (Leader of the Council), Mrs Crabtree (Deputy Cabinet Member for Finance and Traded Services), Zena Cooke (Corporate Director Finance) and Dave Shipton (Head of Finance, Policy, Planning and Strategy) were present for this item.

1. Mrs Crabtree introduced this item and explained that over the last 10 years it had become increasingly difficult to balance the books, the Revenue Support Grant (RSG) was shrinking, costs were increasing and, for example, there was a rising number of elderly people in Kent many with complex needs and in need of the services of KCC. In the previous 10 years savings in excess of £600million had been made, the savings for 19/20 were around £43million and the council was having to propose increases to Council Tax and looking at the discretionary services provided.

2. Members received a presentation from Mr Shipton on the Draft 19/20 Budget. This presentation can be viewed online [via this link](https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=752&MId=7911&Ver=4) or at <https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=752&MId=7911&Ver=4>

3. In response to a query about the Kent Business Rate Pool Mr Shipton confirmed that Dover and Sevenoaks Councils were not part of the pool for valid reasons regarding the tax base in each region.

4. A Member asked for confirmation about the decline in the rate of growth of the Council Tax base. This was due to a combination of new houses (many single occupancy households) and changes in the council tax discounts.

5. In response to a question about the average council tax collection rate Mr Shipton stated that it was 98.5% across all 12 districts. The collection rate of some districts was significantly lower than that average and the majority collected 99%. There had not been a noticeable decline in the past year, this was likely to be significant in future years and the final tax base estimate had not yet been provided by the district councils.

6. Members discussed the use of reserves and the balance between using reserves and making savings; Kent had a debt to reserve ratio of 107%. Mr Shipton explained that when last year's budget was set it was on the basis that the £10.8m wouldn't be drawn down in 18/19 but it would be drawn down in 19/20, Members had agreed at County Council in July that a further draw down from reserves would occur to address the pothole situation because of the severity of the 2017/18 winter. Mr Shipton explained that there was no definitive ratio with regards to reserves/debt, this had been used in the past to test the financial resilience of authorities, it was often difficult to repay debt early and this sometimes carried excessive penalty clauses. Mr Shipton offered to circulate a copy of the reserves/debt graph with a third dimension showing the relative change from one year to another of each authority.

7. The Leader explained that there were encouraging signs with the fair funding model from 2020/21, it was hoped that a significant proportion of the Council's debt would be funded through the fair funding model.

8. A Member asked about the Social Care Levy and the interim arrangements for supporting social care costs, Mr Shipton explained that this was by far the most important part of the fair funding review, the Council had been questioning the formula and had consistently challenged it, it was hoped that this would be addressed in the fair funding review. Mrs Crabtree stated that Members were lobbying hard to ensure that something was done to alleviate this situation.

9. Regarding high needs demand, a Member asked whether officers were investigating how many children/young people there were in Kent with undiagnosed additional needs. Mr Shipton explained that officers mapped trends in demand and the extra demand was significantly higher than the growth in numbers of children. There was a significant overspend on the DSG and there would be a point at which the costs would be unsustainable.

10. Mr Carter considered that there was an oversupply of special schools in Kent, particularly in the independent sector, the percentage of pupils in special schools in Kent as a proportion of those with an Education, Health and Care Plan (EHCP) was above the national average, the link with special needs transport was inextricable.

11. A Member questioned the spending on adult social care or children's social care, how many other authorities were spending 63% of their total net budget? Was this sustainable and how high should this spending get? Mr Carter explained that the Council had a statutory duty to provide services, but this again related to the fair funding model and the need for a formula for distributing funding to ensure it was proportionate for each authority. Mr Shipton commented that it was vital to ensure that the fair funding formula was future proofed.

12. A Member commented on the quality of the EHCP, if they were more accurate and more appropriate for each child money would be saved, the child would get a better education and support, however this was incredibly difficult to do.

13. In response to a question from a Member about the wording in the presentation relating to Brexit as a budget risk, Ms Cooke confirmed that this would be revised to ensure that it was clear that the Council did not want to limit spending to direct costs, and that the authority was looking at the wider costs of Brexit. The wording (as below) would be revised to say limit rather than isolate.

BREXIT adds unfunded pressures (capital and revenue) – possible government grant but we would not want to isolate limit spending solely related to Brexit and would also need to support core budget

14. A Member asked for confirmation about the spend, through the Capital Programme, on education and school provision that was not fully reimbursed through Department for Education (DfE). Mr Shipton explained that there would be a £1million revenue consequence by 2021/22 rising to £4million by 2022/23. The total 3 year spending was around £222million, £84 million was basic need, £64million was developer contributions and £70million was the Council's commitment to borrow to fund existing shortfalls. The member commented that this was a policy decision that had to be made to determine whether the council should only spend the money it received in respect of the statutory responsibility for education.

15. Mr Carter explained that within the Education Commissioning Plan it was written that no further prudential borrowing would be taken up to deliver the schools capital programme. Mr Carter was encouraging other counties across the country to do the same.

RESOLVED that the Scrutiny Committee note the report and thank Mr Carter, Mrs Crabtree, Zena Cooke and Dave Shipton for attending the meeting and for answering Members' questions.

48. Unaccompanied Asylum Seeking Children (UASC): Care Leaver Funding Shortfall 2018-19

(Item C1)

Mr Gough, Cabinet Member for Children' Young People and Education and Sarah Hammond, Director of Specialist Children's Services were present for this item.

1. Mr Gough referred to a previous question about the numbers of UASC in Kent and what was the composition of the young people. This began in 2015 when there was a large inflow, this number has since diminished. The number of referrals in 2015 was 948, there had been an overall reduction in Asylum Seekers across Europe and a reduction of numbers coming into Kent since that time, with 388 in 2016 and 214 in 2017. Overall during 2018 there were 172 referrals, this had picked up slightly at the end of 2018 but numbers were below that seen previously. 315 young people were transferred out of Kent under the National Transfer Scheme, meanwhile many of the young people who remained turned 18 and some 21. There were currently 248 UASC in care and 911 care leavers. The shortfall between the costs to support UASC and the funding grant was an issue which had been running for many years. The largest funding gap was for care leavers, the key issues being a large cohort whose status had not yet been determined, and the second being the period during which KCC had duties to care leavers being extended by legislation from 21 to 25years. The grant for this from the DfE was based on an assumption of between 11-15% of young people (for the total cohort) taking this up and in fact this had been around 100% for UASC (and 50% for citizen young people).

2. Sarah Hammond explained that regarding under 18s, even if young people were refused asylum status they would be given leave to remain; they were lawfully allowed to remain in the country. Regarding education, universities would offer places to anyone who was lawfully in the UK. All care leavers were able to apply for grants because they were lawfully in the UK and the Council did not pay university fees because the students were able to access fees alongside other citizens.

3. In response to a question about travel costs (para 3.11 of the report) Sarah Hammond explained that claims had been submitted to the Home Office for the journeys that young people made to have their immigration interviews. The view of the Home Office was that the grant that they received should include those costs, KCC's view was that if young people were living in Shepway or Dover the costs to travel to London were disproportionate to those living in London and were able to access the main immigration centre in Croydon much more cheaply.

4. Regarding interpreter costs any available aids and assistance available were used. The challenge was that many meetings carried a large legal responsibility (age assessment, human rights assessment for example) and it was critical both for the

young people and for the social workers that there was no window of doubt about what a young person was saying or what they meant and for that reason the Council had to use trained and accredited interpreters. All interpreters were accessed through the Council's managed service but the majority travelled from outside of Kent County, so the council was also paying their travel costs.

5. Regarding Legal Costs, the most common legal challenge was around age, there was significant financial cost to defend court cases. A small number of individuals challenged human rights assessments.

6. A Member asked how much focus our MPs had given to this issue, Mr Gough explained that there had been and still was constant engagement with MPs and they were very aware of the issues. The challenge was with the Home Office who had yet to resolve the issues with the Treasury.

7. In response to a question Ms Hammond explained that there were around 10 key languages spoken by young people that the Council worked with on a regular basis. There was a small middle eastern region cohort of Kent residents who were now fluent in English and had become authorised interpreters. Responding to a comment Sarah Hammond confirmed that the Council was constantly identifying young mentors who had learnt to speak English well. Some ex-care leavers in their late 20s and early 30s who had been able to become qualified and accredited to undertake the interpreter role.

8. Sarah Hammond, in response to a question, explained that the ability of the young people to learn English was extraordinary, the Council had held a number of events where young people were present which Members were invited to. The Council had a moral duty to these young people not to provide a second class services and in addition the law prevented the Council from doing so. Mr Gough explained that the Council had a duty to provide services up to the age of services, however the funding was based on the assumption that only a small proportion of young people would take up these services, which is where the funding problems arose.

9. A Member commented on the high turnover of Immigration Ministers, which made this an even more difficult issue. He asked if it would be helpful if all 12 MPs wrote a joint letter in support of the situation in Kent. Mr Gough took this point on board, it was important to get the timing of this right.

10. Members discussed the recommendation from the Committee, one Member suggested that this be strengthened to include reference to fairer funding for Kent, using lobbying powers and writing to MPs to resolve some of the financial issues that impacted upon the Council, the people who received these services and the residents and council tax payers of Kent.

11. This was not supported by all Members and it was suggested that the CYPE Cabinet Committee take on some of these issues and investigate further. Another Member did not consider that it was necessary to change the recommendation, the Cabinet Member and Officer had informed Scrutiny Members that there had been continuous lobbying for this funding to be proportionate. There was not agreement on this, another Member considered it appropriate for the Scrutiny Committee to make a further recommendation and express a view to the Cabinet Member on

funding issues. Mr Gough commented that it would not be unwelcome if the Committee were to express a view that this is something that needed to be resolved.

12. The Opposition Group Leader offered the Cabinet Member full support from his group and the Labour Group on these issues.

13. There was unanimous support for the resolution included below.

RESOLVED: Members were very grateful for the detailed and useful information provided by the Cabinet Member and Officer

The Scrutiny Committee noted the report and would encourage the Cabinet Member and Officer to do all within their power to ensure full reimbursement of the costs involved and pursue the rapid resolution of the existing funding reviews.

49. Risk: CRR0045 - Effectiveness of Governance within a Member-led Authority.

(Item C2)

Miss Carey (Cabinet Member for Customers, Communications and Performance), Ben Watts (General Counsel), David Whittle (Director of Strategy, Policy, Relationships and Corporate Assurance), and Mark Scrivener (Corporate Risk Manager) were present for this item.

1. Ben Watts introduced this item; the risk was made up of two elements; likelihood and impact score. This risk had a score of 5 for impact and likelihood score of 2. The risk had an overall score of 10 but was still marked as 'unlikely' at the current time. The risk related to Member Governance and the important role of all Members of the Council, it was a whole system risk. It was vital that Member risk was identified and scrutinised. Mr Watts was supportive of this risk and was supportive of Kent being an authority where the risk appeared on the register and could be discussed. Mr Watts referred to Article 2 of the constitution and the key role of members in Kent in relation to governance framework.

2. A Member questioned the likelihood and impact, and in addition the Member queried whether the risk should address the actions or inactions of officers in relation to officers not being responsible to a Member. Mr Watts explained that the impact of the risk was high, and likelihood was low resulting in the medium risk. Within the constitution there was the provision for chief officers to seek written direction from Executive Members, changes had also been made around delegations to officers.

3. David Whittle explained to Members that the risk had been put into the corporate risk register following discussions had at the Autumn Refresh around the issues at Northamptonshire and, following the Max Caller report, the need for strong governance. It was felt appropriate to put this risk in; the team would always listen to feedback and in relation to the balance between member and officer responsibility this would be taken on board, however it was referenced within the cause of the risk section. Mr Whittle would consider whether this needed to be strengthened with officers outside of the meeting. Mr Scrivener explained that the impact was a 5 out of 5 score, the consequences were high and combined with the likelihood it became a medium risk.

4. A Member commented that there were instances where Members did not have sufficient knowledge of the background in making decisions. It was considered that the wording needed to be tightened to ensure that this was clear.

5. A Member stated that she considered that KCC was an authority led by a small group of Members. It was important that the authority had a constitution which reflected all kinds of potential proportionality. She requested reference within the document of the understanding that the decision making group reflected all parties that were in the controlling group. In relation to the ability of officers to seek written authority from Executive Members the Member asked how often this had been used? Mr Watts confirmed that no officer had yet to ask for a written direction. The Member also referred to existing committees and sub-committees which were a single party constitution, the Member had asked for advice of where the authority for these groups came.

6. The Member also commented on the timing of the budget publication and group briefings and asked that consideration be given to timings of these issues in the future.

7. Miss Carey explained that it was important to remember that these were risks that could happen, not that this was the current situation. Both formal and informal meetings regarding the budget took place, it was for Members to ask the right questions and the purpose of the risk was to try to avoid making future mistakes. Mr Watts explained that the S151 Officer was looking at new ways of carrying out finance briefings around the budget and an all Member briefing was also being held in advance of the approval of the budget.

8. Referring to the written direction from Executive Members to Officers this was intended to ensure that the organisation acted in the right way and that the proper advice was given and provided. There was also a requirement to report to Governance and Audit Committee any request under this provision, this ensured that all Members were aware when this was used. Mr Watts confirmed that he would be providing the advice which would be circulated to all Members of the Scrutiny Committee around the informal and formal governance of the council.

9. Members discussed the availability of information and one member commented that he had previously had to submit a Freedom of Information request to the authority to gain access to information requested. Ben Watts explained that in relation to exempt items it was considered that the exempt provisions were being used appropriately, reports were split as much as possible to ensure that there was as much as possible in open reports. A re-write of the constitution was currently underway, and this would be brought to the May County Council.

RESOLVED that the Scrutiny Committee thank the Officers for attending the meeting and answering Members' questions. The Scrutiny Committee noted the report.

At the conclusion of the meeting the Chairman asked Members of the Scrutiny Committee whether they would support a future item on the Committee agenda to look at Member's IT, this was supported by the majority of the Committee.