POLICY & RESOURCES PANEL

Minutes of the meeting of the POLICY & RESOURCES PANEL held at Council Chamber, County Hall, East Sussex County Council, St Anne's Crescent, Lewes BN7 1UE at 11.30 am on Thursday, 20 January 2022.

Present: Councillors Peltzer Dunn (Chairman), Evans, Galley, Lambert and Taylor

Also present: Whittaker (Chief Fire Officer), D Norris (Deputy Chief Fire Officer), M Matthews (Assistant Chief Fire Office), D Savage (Assistant Director Resources/Treasurer), L Woodley (Deputy Monitoring Officer), J King (Assistant Director Safer Communities), K Pearce (ITG Manager), J Olliver (Payroll, Pensions & HR Assurance Manager) and E Simpkin (Democratic Services Officer)

20 Declarations of Interest

The Assistant Director Resources/Treasurer declared that in relation to item 26, in that he was a Director of the Fire & Rescue Indemnity Company.

21 Apologies for Absence/Substitutions

Apologies were received from Councillor Powell.

22 Notification of items which the Chairman considers urgent and proposes to take at the end of the agenda/Chairman's business items

There were none.

23 Minutes of the last Policy & Resources Panel meeting held on 11 November 2021

RESOLVED: That the minutes of the meeting of the Policy & Resources Panel held on 11 November 2021 be approved as a correct record and signed by the Chairman.

24 Callover

Members reserved the following items for debate:

25. Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 8

26. Fire Authority Service Planning Processes for 2022.23 and Beyond – Revenue Budget 2022/23 and Capital Asset Strategy 2022/23 to 2026/27

27. Developing Situation on Firefighters' Pension Schemes (FPS) Age Discrimination, Remedy & Immediate Detriment

28. IT Delivery Contract Extension

25 Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 8

The Panel received a report of the Assistant Director Resources/Treasurer (ADR/T) which presented the findings of the Month 8 monitoring undertaken on the Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26.

It was noted that a net revenue underspend to the sum of £388,000 had been identified, an increase in underspend of £387,000 from the position identified in the last report to the Panel of £1,000 underspend. This was mainly due to vacancies across the service, the identification of savings within ITG, underspends within Operational Support & Resilience offset by overspends in relation to overtime, Deputy Chief Fire Officer recruitment, additional allowances for Logistics & Control Support staff, ill health retirements and over budgeting on S31 business rates. Most in-year pressures would be dealt with through the use of contingency, use of reserves or service underspends.

With regards to the Capital Budget and Capital Strategy of £23,294,000 which was approved by the Fire Authority on 11 February 2021, this had been updated to £23,885,000 including slippage brought forward from 2020/21 (£364,000), IRMP vehicles and equipment (£142,000) and work at Seaford required for it to house the High Volume Pump (£85,000). The updated Capital Programme was forecasted to be underspent by £18,000. The current risks to the Revenue budget and Capital programme were detailed in section 3 of the report.

RESOLVED: That Panel noted:

(i) the risks to Revenue Budget and the projected overspend;

(ii) the risks to the Capital Programme;

(iii) the increased net forecast drawdown from reserves;

(iv) the grants available and spending plans;

(v) the monitoring of savings taken in 2021/22; and

(vi) the current year investments and borrowing

26 Fire Authority Service Planning processes for 2022/23 and Beyond - Revenue Budget 2022/23 and Capital Asset Strategy 2022/23 to 2026/27

The Panel considered a report of the ADR/T which presented the Fire Authority’s draft Revenue Budget 2022/23, Capital Strategy 2022/23 – 2026/27 and Medium Term Finance Plan (MTFP) for 2022/23 – 2026/27 for initial consideration prior to its formal consideration by the Fire Authority at its meeting on 10 February 2022.

The ADR/T introduced the report highlighting that final Council Tax and Business Rate collection fund figures were still awaited from billing authorities, as was confirmation of fire specific grant allocations from the Home Office. The ADR/T outlined the key headlines of the proposals:

- Although the Comprehensive Spending Review covered a three year period, the Government had announced a one year provisional settlement for 2022/23 only. This was understood to be due to the Department for Levelling Up, Housing & Communities plans to implement a change to the funding formula as part of the Fairer Funding Review and make changes to Business Rates for 2023/24.

- The settlement included a one-off un-ringfenced Services grant of £0.535m to cover costs such as pay, inflation, increase in National Insurance contributions and other pressures. It was expected that the pension grant would continue at the same cash level as in 2021/22

- The Council Tax referendum threshold remained at 2%, except for eight fire services in the lowest quartile of Council Tax that had been granted flexibility to increase their precept by up to £5. The Revenue Budget and MTFP had been prepared on the basis of a 1.99% increase for 2022/23 and beyond.

The Panel noted that the budget reflected the outcome of the Star Chamber process during which cost pressures, investment bids and savings had been discussed and agreed with Assistant Directors. A balanced budget had been achieved through the use of reserves, however, the ADR/T stressed that the ongoing use of reserves to achieve a balanced budget was not a sustainable approach.

The Capital Asset Strategy proposals included the refurbishment of the five Whole Time Stations and new investment in Live Fire Training facilities and Multipurpose Training Hubs. As reserves were used to invest in capital projects, borrowing was set to increase. The Revenue impact of new borrowing was reflected in the MTFP from 2022/23 onwards. There were three scenarios outlined in the MTFP with the mid-case scenario showing a need to deliver savings of £1.533m in the revenue budget by 2026/27. The ADR/T added that if it was not possible to generate savings through efficiencies in the areas identified in the budget report there may be a need to revisit the Integrated Risk Management Plan proposals as a way of generating savings given the majority of spending was on operational provision.

The Panel asked whether the cost of utilities had been included as a risk factor. The ADR/T agreed that inflation, set at 2%, was a risk and that areas which may be subject to excess inflation (utilities, timber and food costs) had been identified and built into budget.

Members also asked for further information on the Tax Income Guarantee Scheme (TIG) grant, specifically how secure the provision was and whether it would be needed into 2023/24. The ADR/T explained that Government had made provision for the impact of covid on the Business Rate and Council Tax collection rate through the TIG. This was being paid in 2 tranches, however there was still currently a degree of uncertainty over the exact amount the Service would receive as some billing authorities had revised their business rate returns to Government and revised TIG grants had yet to be confirmed.

The Panel queried whether income from Business Rates Pool had been included in the budget proposals. The ADR/T clarified that it was practice not to build the Business Rate Pool income into the base budget given the uncertainty over the amount to be received. Any actual income received was transferred into an earmarked reserve to be spent in line with the Pool Memorandum of Understanding. Income from the Pool had enabled the Service to make significant investment supporting its Protection services including in the Customer Relationship Management software and the recruitment of 6 protection trainees. It was noted that it was likely that 2022/23 would be last year of the Pool if the Business Rates was subject to a reset in 2023/24.

The Panel thanked officers for a comprehensive report.

RESOLVED: That the Panel:

1. Noted that:

   (a) the one year settlement as set out in the Local Government Finance Settlement was only provisional at this stage and may be subject to change;

   (b) the proposed increase in council tax of 1.99% was based on the threshold in the Provisional LGFS;

   (c) the East Sussex Business Rate Pool, of which the Authority was a member, had been approved as part of the LGFS, and that any income would be transferred into the Business Rates Pool Reserve;

   (d) that the Home Office was still to announce the quantum and allocation of fire specific grants for 2022/23; and

   (e) the final council tax and business rate bases and the collection fund positions were still awaited and that final budget proposals may change once this information was received.

2. Recommended that the Fire Authority, subject to any changes as a result of recommendation 1, approves:

   (a) an increase in council tax of 1.99% and thus approves:

(i) the budget proposals set out in this Report and the net budget requirement of £41.718m for 2022/23;
(ii) the council tax requirement of £29.240m; and
(iii) the council tax and precepts as set out in Appendix F

(b) the capital programme for the next five years and the capital budget of £7.250m for 2022/23 including the plans to use CIL, capital receipts, revenue contributions and new borrowing to finance capital expenditure;

(c) that the General Balance remains below the Authority's policy minimum of 5% of the net revenue budget until 2024/25;

(d) the fees and charges set out in Appendix C;

(e) the use of reserves as follows to balance the revenue budget in 2022/23:
- 0.2m from Sprinkler reserve
- £0.2m from BR Pool reserve (to fund investment in protection services)
- £0.032m from Financial Stability reserve

(f) that the Treasurer, in consultation with the Chairman and the Chief Fire Officer, be authorised to make any adjustments to the presentation of the budget to reflect the final Local Government Finance Settlement.

27 Developing Situation on Firefighters' Pension Schemes (FPS) Age Discrimination, Remedy & Immediate Detriment

The Panel considered a report of the Assistant Director People Services (ADPS) which provided an update on the changing position in regard to Age Discrimination, Remedy & Immediate Detriment Cases in the Firefighters' Pension Schemes and the recommended approach for the Service. The update followed the decision made by the Panel in November 2021 to adopt the Local Government Association (LGA) and Fire Brigades Union (FBU) Framework for Managing Immediate Detriment Issues for dealing with those cases retiring before legislation was due to be passed in October 2023 and the subsequent withdrawal of Home Office guidance on processing certain immediate detriment cases. In withdrawing its guidance the Home Office explained that due to the complexity of the situation it did not advise schemes to process any immediate detriment cases before legislation was in place. In December 2021 a decision was made by the Fire Authority to pause the processing of any immediate detriment cases. Officers now had assessed the options available as to how best to proceed and these were set out in the report for the Panel to consider. The ADR/T stressed that the options were based on officers giving the best advice they could, given the uncertainty and changing nature of the matter.

The Payroll, Pensions and HR Assurance Manager explained that there were four possible options for the Authority:

- Restart the paused position and action Immediate Detriment for both retirees and pensioners in retirement.

- Remain paused whilst further information and guidance was obtained.

- Opt out of Immediate Detriment entirely until the Full Home Office remedy was published. This would effectively mean that any retirees from January 2022 until October 2023 would have to wait for their legacy Pension entitlement.

- Revert to its approach agreed in the Summer 2021 and continue with paying legacy benefits for those due to retire in the coming months (category 1 cases) but not revisiting those already in retirement until there was more certainty of how to action the retrospective changes (category 2 cases).

The Deputy Monitoring Officer informed the Panel that she was satisfied the Service had the ability to make payments on the basis of the power to compromise actual or threatened proceedings. She added that there was more certainty over the position on those individuals that were due to retire and less on those that had already retired.

The ADR/T referred to Home Office communication that made it clear that the Government would not be providing any funding to compensate services for any additional payments which they may make which fell outside of the pension account and explained that lump sums and backed dated revised payments constituted scheme costs. Non scheme costs included tax charges on additional lump sums which were paid over 12 months after retirement, interest on those payments at 3% per annum, contribution holiday compensation payments and scheme pays compensation. The main are of uncertainty was in relation to additional employee contributions which were due when an individual reverted from the 2015 scheme to the 1992 scheme. Officer's view, in the light of the McCloud / Sergeant judgement, was that the contributions to the 2015 scheme should be treated as if they were contributions to the 1992 scheme and the net additional contributions should be subject to tax relief if paid via payroll and not if paid from a pension lump sum. In the latter case there was a risk if HMRC did not make arrangements for tax relief to be claimed at a later date that the Authority may be liable for compensating individuals accordingly. He added that there was significant uncertainty over the tax implications and liability but it was important to remember that these risks were sector wide and that the Chair of the Firefighter Pension Scheme Advisory Board had written to the Treasury seeking further clarification on these and other aspects of their guidance note. The Service had approached its own tax advisors for advice on the matter. It was noted that the exposure for the liability of any additional tax charges should the Authority progress with the category 2 cases was thought to be in the region of £30-£50k. The majority of these costs may be mitigated if changes were made by HMRC to tax regulations for the 2022/23 tax year and payments were made after that date. The ADR/T summarised that he would recommend delaying the consideration of the category 2 cases until more was known as to whether the tax liability would be mitigated, reducing the Authorities financial exposure. He suggested that there could be a further update to the Panel in May when Her Majesty's Revenue and Customs (HMRC) position had been established. The Payroll, Pensions and HR Assurance Manager added that it was thought that the cost of any legal challenge to opting out of Immediate Detriment entirely was likely to exceed the cost of continuing until the tax liability had been confirmed.

The Panel dismissed the option to opt out of Immediate Detriment entirely as they did not think it acceptable for all retirees and pensioners to have to wait for the situation to be resolved. Further discussion was had over the option to progress category 1 cases but pause those in category 2 which would apply to approximately 6 cases.

The CFO highlighted the difficult nature of the situation and added that different positions were being taken across fire and rescue services. She was aware that two cases had recently been settled out of court as the risk of potential legal costs and payments outweighed the risk of making payment under the current framework. There was the wider risk to industrial relation issues and staff were feeling frustrated by the long-running nature of the matter. Clarity on the outstanding issues was being sought by all parties. The CFO agreed that option 4 was the best way forward, all things considered.

The Panel agreed that option 4 most was the most satisfactory given the circumstance and noted that the LGA and National Fire Chiefs Council were actively involved in seeking to resolve the outstanding matters.

RESOLVED: That the Panel agreed that the Authority revert to its approach agreed in the Summer 2021 and continue to pay legacy benefits for those due to retire in the coming months but would not revisit those already in retirement until there was more certainty of how to action the retrospective changes.

28 IT Delivery Contract Extension

The Panel received a report of the ADR/T which updated Members on the outcome of Spirit Acuity's review of the current telent contract performance and the assessment as to whether the Authority should take up the option to extend the existing IT delivery contract for a further three years to August 2026. The report provided the outcome of the associated commercial negotiation with telent and the associated savings that had been negotiated, based on the planned expenditure detailed in the Authority's IT Strategy 2020-2025. The report recommended that the Panel approve the three year extension to the contract with the associated savings.

The ADR/T highlighted the importance of the review and commended officers and telent for their open and honest engagement throughout. The assessment undertaken by Spirit Acuity had been a thorough process and had concluded that the contract with telent was fit for purpose and operating well. There was a recommendation to negotiate with telent with the view to achieve an improvement in price performance and increased strategic engagement in areas such as future technology options. As a result of the negations projected savings of £303k would be achieved. Further detail was provided in the confidential appendix to the report.

RESOLVED: That the Panel:

i) noted the outcome of Spirit Acuity's review of the current Telent contract and recommendation to extend the contract for a further three years to August 2026;

ii) noted that as part of the Spirit Acuity recommendations a new Strategic Engagement Workshop will take place annually, jointly facilitated by Telent and the Authority, to identify strategic requirement, priorities and align plans beyond the immediate IT Strategy;

iii) noted the outcome of the commercial negotiation with Telent, related to the three year extension and the projected saving of £303,000 for the extended term, based on the expenditure detailed in the published ESFRS IT Strategy 2020-2025;

iv) approved the three year extension of the Telent contract to August 2026 and associated £303,000 saving; and

v) delegated authority to the Assistant Director Resources / Treasurer to put in place all arrangements necessary to exercise the contract extension.

29 Exclusion of Press of Public

RESOLVED: That agenda item 30 be exempt under paragraph 3 of Part 1 Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 and accordingly are not open for public inspection on the following grounds: the information relates to the financial or business affairs of any particular person (including the authority holding that information).

30 IT Delivery Contract Extension - Confidential Appendix

RESOLVED: That the Panel noted the confidential appendix to item 28 of the agenda.

The meeting concluded at 12.41 pm

Unconfirmed minutes – to be confirmed at the next meeting of the Policy & Resources Panel

Signed

Chairman

Dated this day of 2022