



POLICY AND RESOURCES COMMITTEE

Tuesday 30th November 2021

REPORT TITLE:	MINISTERIAL EXTERNAL ASSURANCE REVIEW
REPORT OF:	CHIEF EXECUTIVE

REPORT SUMMARY

The Council, having applied for exceptional financial support, received a capitalisation directive for 2020/21 and received an offer for 2021/22 subject to an external assurance review focusing on its financial position and on its ability, including the strength of its governance arrangements, to deliver its plans for medium-term sustainability. The reviews were commissioned by the Govt. Department with the intention of it resulting in an agreed plan between the Authority and the Secretary of State to address the review's recommendations.

The Minister has now written to the Council on 2nd November 2021 enclosing and publishing the two independent reports that make up the External Assurance Review (attached as Appendix A). The letter asks the Council to set out in writing, within the following month, the steps it is taking in the immediate and longer term to respond to the Review and implement the recommendations.

RECOMMENDATIONS

That the Policy and Resources Committee:

1. Authorise the Chief Executive, in consultation with the Leader, to provide a written response to the Minister's letter to the Council of 2nd November 2021 (attached as Appendix A to this report) in the terms of:
 - (a) acknowledging and accepting with the content of the reports;
 - (b) developing the recommendations for implementation; and, in particular,
 - (c) emphasising the adoption of the recommendations concerning:
 - (i) development of a financial recovery plan;
 - (ii) appointing an independent Panel to support the Council;
 - (iii) moving to a whole council scheme of elections, subject to consultation, to take effect at the earliest practicable opportunity; and
 - (iv) review the committee system to reduce the number of committees.

2. Authorise the Chief Executive to take such decisions as he considers necessary to implement the recommendations contained in the External Assurance Review (as outlined at Appendix B to this report), such decisions to be taken in consultation with the Leader and Group Leaders wherever appropriate.
3. For the remainder of the 2021/22 municipal year, agree to recommend to all policy committees that:
 - (a) agenda be reduced so far as is practicable to only those matters associated with the effective maintenance of statutory services, the budget, budget and financial recovery plan development and responding to the external assurance process; and
 - (b) all other matters, including all key and non-key decisions, be delegated to the relevant Director, in consultation with a committee's chair and group spokespersons where considered necessary.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To be able to respond adequately to the letter from the Minister of State for Equalities and Levelling Up Communities of 2nd November 2021.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Committee may disagree with one or more of the recommendations contained within the External Assurance Review.

- There may be a discussion to be had over the content of the reports in full, but all recommendations are considered to be a fair reflection of the Council's state of affairs and of the actions required to be taken at the time that the reports forming the Review were generated.

- Non-acceptance of any of the recommendations may put at risk the capitalisation directive requested by the Council or to cause the Secretary of State to grant a directive but for either or both a lesser amount than that requested and to be made subject to further conditions that might not have otherwise been added.

- 2.2 Not respond or reject the Review in its entirety.

- If no reply is made, or is unduly delayed, it is highly unlikely that a further capitalisation directive will be granted in respect of the 2021/22 Budget. It may further be considered a breach of the condition of the directive previously granted in respect of the period for 2020/21, leaving the Council with significant sums to make up and require one or more emergency budgets.

3.0 BACKGROUND INFORMATION

- 3.1 Further to decision of Policy & Resources Committee of 7th October 2020 (minute 9/2020-21 refers), the Council applied to the Secretary of State for a capitalisation direction to fund revenue expenditure incurred by the Council in respect of the pressures or income losses outlined in your request for exceptional financial support. This was in respect of the financial year 2020/21 and also for 2021/22.

- 3.2 On 10th February 2021 the Secretary of State issued a direction that the Council treat as capital expenditure, expenditure which:

(i) is either:

- (a) revenue expenditure and meets the definition of an additional cost pressure as identified and agreed with the Ministry of Housing, Communities and Local Government (MHCLG) through the Authority's formal request for exceptional financial support; or
- (b) any revenue expenditure not exceeding the value of income losses in the financial period 2020/21 as identified and agreed with MHCLG through the Authority's application;

- (ii) is properly incurred during the financial period 2020/21; and
- (iii) does not exceed a total of £9.0m.

3.3 It was additionally made a condition of the direction that:

- (i) the Authority may only capitalise expenditure when it is incurred;
- (ii) where expenditure is capitalised, the Authority shall charge annual Minimum Revenue Provision using the asset life method with a proxy 'asset life' of no more than 20 years, in accordance with the Department's Statutory Guidance on Minimum Revenue Provision issued by the Secretary of State under section 21(1A) of the Local Government Act 2003;
- (iii) the Authority will undergo an external assurance review focusing on its financial position and on its ability – including the strength of its governance arrangements – to deliver its plans for medium-term sustainability. This is to be completed by the end of May 2021 unless a later date for completion is advised by the Department, and will be commissioned by MHCLG, with the intention of it resulting in an agreed plan between the Authority and the Secretary of State to address the review's recommendations; and
- (iv) where the Authority's capital financing requirement is increased as a result of the capitalisation of expenditure under this direction, any further borrowing from the date of the capitalisation letter up to and including, but not exceeding, the increase in the financing requirement must be obtained from the PWLB (Public Works Loan Board), and must be subject to an additional 1 percentage point premium on the interest rate above the rate the loan would otherwise be subject to. This requirement does not apply to borrowing in relation to your Housing Revenue Account. Where any borrowing to which these conditions initially apply is refinanced, the conditions must continue to apply to the resulting borrowing.

3.4 Dates were agreed for the external assurance review, which was undertaken by CIPFA and Ms Ada Burns over a period in July and August 2021 by way of a series of interviews and observations.

3.5 The Minister has now written to the Council on 2nd November 2021 enclosing and publishing the two independent reports that make up the External Assurance Review, which is attached as **Appendix A**. The letter asks the Council to set out in writing, within the next month, the steps it is taking in the immediate and longer term to respond to the Review and implement the recommendations.

3.6 A decision upon a further direction for capitalisation for the year 2021/22 will be made based upon the assessment of the Council's written response.

3.7 It is considered that, whilst the reports were based upon a snapshot in time and further and greater detail and further consideration based upon discussion would have provided greater depth and clarity for the report

authors, the reports making up the External Review provide a fair and accurate reflection of the Council. The recommendations should, therefore, be accepted in full and acted upon.

3.8 The primary recommendations of the Review, and as highlighted in the Minister's covering letter, are considered further below. These and all other recommendations from the Review reports, reflection and actions resulting from them are set out in the table attached as **Appendix B** to this report.

3.9 Development of a Financial Recovery Plan

3.9.1 The Review makes the recommendation(s) that the Council:

- Within the next three months (and by the end of Quarter 3) develop a financial recovery plan for the three years 2022/23 to 2024/25;
 - a) the plan to be developed with the active engagement of Members, built from robust data, and following a training programme on local government finance;
 - b) all Group Leaders to engage constructively with the plan and support a dialogue with the public;
- Suspend all work on new initiatives which do not directly contribute to the development or implementation of the plan or are otherwise required to meet statutory obligations.

3.9.2 There are a number of individual recommendations that come together to inform development of the financial recovery plan which the Council's officers have been working towards with some vigour.

3.9.3 The Chief Executive authorised the Director of Resources to appoint additional resource to provide capacity and support in carrying out the duties of the s.151 Officer. The Director has since engaged Mr Stuart Fair, who brings significant experience of local government finance and supporting financial recovery. Mr Fair will bring forward a draft financial recovery plan by 31st December for consideration with the medium term financial plan (MTFP), which will be approved by Council to the same timetable as approval of the 2022/23 budget.

3.9.4 Mr Fair will undertake two sessions of Member training, commencing with a session for Policy and Resources Committee members on 24th November. The training programme is part of a wider organisational development plan that will be brought forward to the same timetable to support the implementation of the financial recovery plan.

3.9.5 The Chief Executive has facilitated a number of dedicated sessions with the political Group Leaders to position the requirements for the Financial Recovery Plan. The sessions have also sought to foster a more collaborative approach between the political groups to support the required decision-making to deliver the Council's financial recovery.

3.9.6 The Council therefore recognises the need for the Policy & Resources Committee to take a strong lead in the development of a robust financial recovery plan, plans for reshaping of council budgets and services and the setting of targets to achieve a balanced budget. An important early step in responding to the issues in the Review has been the establishment of the Finance Sub-Committee as of 25th October 2021. Meeting in a working group capacity as well as in a formal arrangement, it has now begun its work to facilitate an agile and swift approach to delivering oversight and feedback on the budget setting process.

3.9.7 It is intended that officers will develop and operate an approach to prioritisation which will be used as an assistance tool to assess which projects will be paused or stopped altogether as part of the response to the Review recommendations. This will, for example, lead to halting work to develop a Community Bank at this time, as ceasing the project was one of the direct recommendations of the CIPFA report. This approach is to ensure there is a sufficient level of corporate focus on delivering the Council's financial stability in accordance with the Review recommendations.

3.10 Appointing an Independent Panel

3.10.1 The Review makes the recommendation(s) that the Council appoint an independent Panel, with appropriate legal and financial expertise, to:

- (a) advise and scrutinise the plan to provide assurance to the Council that it is robust and deliverable;
- (b) monitor delivery of the plan and report to the Council on performance against the plan twice a year

The report also recommended that the Department for Levelling Up, Housing and Communities should consider the Panel's report on progress against the Plan to seek assurance that the Council is moving effectively towards financial sustainability

3.10.2 Steps have been taken to contact the Local Government Association to consider those persons who would be suitable and who would be in a position to support the Council in the actions it should take.

3.10.3 A process of selecting and forming the Independent Panel to assist and advise the Council is underway and forms part of the implementation plan included in Appendix B.

3.11 Whole council electoral scheme

3.11.1 The Review makes the recommendation(s) that the Council should move to implement a four year, "all out" electoral cycle at the earliest opportunity. The Council currently has an electoral scheme of councillors being elected by thirds for a term of four years by elections held every three years out of four. A whole council scheme (all-outs) is one where all councillors retire at the same time and their seats are made subject to an election once every four years.

- 3.11.2 A change to the electoral scheme requires a two-thirds majority vote at a Council meeting established for that purpose and only after a process of consultation. The resolution must state the year of the change and, once made, a decision on changing cannot be made again for a period of five years.
- 3.11.3 The various factors associated with the required consultation and its outcome, what practical and resourcing preparations are required for any change and the impact of other factors, such as the Boundary Commission' review, planned combined elections and the introduction of new legislation concerning the running of elections, are to be considered in a separate report to this Committee.

3.12 Reducing the number of committees

- 3.12.1 The Review makes the recommendation for Members to work with the Director of Law and Governance to review the Committee system to reduce the number of Committees, assign authority to the Policy and Resources Committee in respect of financial recovery, and significantly reduce the related administrative burden.
- 3.12.2 A review is underway of the Committee system. That review includes the questioning of all members, a comparison of other authorities and is being assisted by the Local Government Association. It is expected that the Constitution and Standards Committee will make receive this information and make a formal recommendation at its January meeting.
- 3.12.3 The Council's objectives in setting the committee arrangements are accountability, credibility, transparency, collaboration and timeliness, as defined in the Constitution. This accords with that in the Guidance that accompanied the introduction of the Local Govt Act 2000 of local governance arrangements of being efficient, transparent and accountable as defined in the Guidance. The Guidance goes on to state, however, that committee arrangements should take the broad form of there being:
- “no more than five committee(s) (excluding regulatory committees, area committees and joint committees) of the local authority with delegated functions from the full council to implement the policy framework and to put proposals to the full council for future policies and budgets” (policy & services committees).
- 3.12.4 Comparatively, there are currently nine unitary or London/Met councils with a committee system, of which:
- two councils have four policy & services committees;
 - four councils have five policy & services committees; and
 - one council has six policy & services committees.
- Wirral currently has seven policy & services committees.

- 3.12.5 A report setting out these considerations in detail will be presented to the Constitution Committee of 14th December 2021, which will acknowledge the Review recommendations, note comment and direction from this meeting and advise that the Committee seek to reduce its policy and services committees to the five or less, as contained in the Guidance, and how that might be achieved.
- 3.12.6 As a response to the Review recommendations whilst this process unfolds, it is considered appropriate to respond by reducing the agenda of committees and increasing the delegation of officers accordingly, so that business transacted by the policy committees of the Council is primarily focussed on matters associated with the budget, budget and MTFP development and responding to the issues raised by or as a result of the Review. This in addition to matters associated with the essential maintenance of services and any matters that officers consider must be referred to Members. It is felt that this approach should continue until the Council has agreed the revised medium term financial plan (MTFP) and the implementation of a change in the committee governance arrangements.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The development of an effective financial recovery plan is essential to the viability of the Council.
- 4.2 The Council's opportunity to operate within a balanced budget for 2021/22 will depend to a large degree on whether a further capitalisation directive is granted or not.
- 4.3 The cost of the independent panel is as yet unidentified and will be reported in due course.
- 4.4 Individual published decisions may be required in order to implement the Council's response to each recommendation. The associated financial implications will be considered at the time any such decisions are intended to be made.

5.0 LEGAL IMPLICATIONS

- 5.1 A capitalisation directive, and the ability of the Secretary of State to issue a directive and apply conditions as is set out in sections 16(2)(b) and 20 (treatment of costs as capital expenditure) of the Local Government Act 2003
- 5.2 Individual published decisions may be required in order to implement the Council's response to each recommendation. The associated legal implications will be considered at the time any such decisions are intended to be made.
- 5.3 Under s.15 of the Local Government Act 1999, if the Secretary of State is satisfied that the Council is failing to comply with its requirements as a best value authority, they may direct it to carry out a review of its exercise of

specified functions (a Best Value Review). The same legislation also empowers the Secretary of State to direct that the exercise of functions of the Council are undertaken by the Secretary of State or their nominee (known as commissioners), or that the Council comply with any instructions of the Secretary of State or their nominee in relation to the exercise of that function.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The response to the External Assurance Review requires a realignment of the Council's resources to deliver the response to the recommendations and to focus on the development of a sustainable Medium Term Financial Plan (MTFP) as a result.
- 6.2 To support delivery of the MTFP and ensure it is prioritised around the implementation of the Wirral Plan, a Change Programme will be brought forward to the next meeting of this committee on 1st December 2021. The Change Programme will seek to ensure the Council's operating model is optimised and that a programme of service reviews is brought forward to harness opportunities for better integration and configuration and to achieve specified savings targets as business cases for service change are developed.

7.0 RELEVANT RISKS

- 7.1 Should capitalisation not be granted, then the Council is at risk of having to implement severe ongoing reduction in expenditure.
- 7.2 Not accepting or responding in a considered and appropriate manner to deliver effective governance and ongoing MTFP places the Council at risk both reputationally as an authority and within the Borough but also with Government and regulators, and financially in terms of a potential s.114 notice and/or further intervention.
- 7.3 If the Secretary of State considers that the Council is responding insufficiently to the External Assurance Review, then they may direct it to carry out a Best Value Review under s.15 of the Local Government Act 1999. Where specific failures are found, the undertaking of a Best Value Review often then leads to the imposition of commissioners to directly take over Council functions or for the Council to comply with their instructions. Equally, a failure in governance that leads to a s.114 notice (by the s.151 officer), a s.5 notice (by the monitoring officer) or a public interest report (by external auditors) would also likely lead to such a step.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 On 15th November 2021 an all-Member presentation was made by Ada Burns and by CIPFA, the authors of the External Assurance Review's governance report and financial management report.

8.2 The Chief Executive intends to provide a weekly update on progress to Group Leaders, to be cascaded to Members of their respective political groups.

9.0 EQUALITY IMPLICATIONS

9.1 To enable the Council to comply with its equality requirements and to meet its objectives concerning equity, as set out in the Wirral Plan, the Council will need to be able to operate within a sustainable financial and governance framework.

9.2 Any consultation and individual considerations arising out of this report and implementation plan will include equality implications and an equality impact assessment will be completed as part of that consideration wherever warranted.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The individual considerations arising out of this report and implementation plan will have due regard to the Council's Environment and Climate Change Action Plan and the 'Sustainability' working principle.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 To enable the Council to meet its objectives of community wealth building as embedded in the Economic Strategy as a key working principle, the Council will need to be able to operate within a sustainable financial and governance framework.

REPORT CONTACT: Paul Sator, Chief Executive

APPENDICES

Appendix A (1) Letter of the Minister encompassing the External Assurance Review

Appendix A (2) Governance Report – External Assurance Review

Appendix A (3) Finance Report– External Assurance Review

Appendix B Response to Recommendations in External Assurance Review

BACKGROUND PAPERS

Letter of 9th October 2021 requesting capitalisation directive

Letter of MHCLG of 10th February 2021

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Policy & Resources Committee	7 th Oct 2020
Council	1 st March 2021
Policy & Resources Committee	9 th June 2021