

COUNCIL

TUESDAY, 28TH JULY, 2020

At 6.15 pm

in the

VIRTUAL MEETING - ONLINE ACCESS,

SUPPLEMENTARY AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
5.	<u>PUBLIC QUESTIONS</u> Written responses	3 - 16

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a) Adam Bermange of Boyn Hill ward will ask the following question of Councillor Johnson, Leader of the Council:

Does the Leader of the Council believe he owes a fiduciary duty to the Secretary of State for Housing, Communities and Local Government in relation to the latter's powers under Schedule 1, Sub-Paragraph 2(5)(c) of the Housing and Regeneration Act 2008 and, if so, will he urgently write to the Ministry to disclose fully the findings of the CIPFA investigation?

Written response: The review of financial governance that was undertaken by CIPFA and the results of that review are publicly available on our website and therefore available for anyone who wishes to view the information contained within it.

b) Adam Bermange of Boyn Hill ward will ask the following question of Councillor Cannon, Lead Member for Public Protection and Parking

Would the Lead Member confirm the current legal and contractual basis for parking enforcement within self-administered Residents' Parking Zones and whether it is the Council's intention to withdraw enforcement in those streets that decline to become designated as Council-administered schemes? If so, when?

Written response: The Parking Principal will be writing to all administrators of self-administered schemes during July and August advising of the 2 options which are available from April 1 2021.

These options are:

- 1. Become a council administered scheme and apply the relevant permit fees*
- 2. Request the removal of the scheme, remove the permit parking restriction and for enforcement to cease*

Self-administered schemes form part of the Traffic Regulation Order relating to a particular area. The same order and conditions also apply to Royal Borough administered schemes. The difference between self-administered and Royal Borough schemes is that permission is granted by the Royal Borough to the administrator of self-administered schemes to set local scheme rules including the number of permits permitted per household.

In the Traffic Regulation Order the definition of permit includes the wording "any other body with Councils approval and permission". This definition is applicable and covers self-administered schemes.

c) Ed Wilson of Clewer and Dedworth West ward will ask the following question of Councillor Rayner, Lead Member for Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor

Will the Lead Member provide details of the demise of the Legacy Leisure Trust and outline the governance arrangements of Leisure Focus.

Written response: *Parkwood Leisure entered into a contract with RBWM to operate our Leisure Centres with effect from January 2015, and the day to day operation of the centres has been delivered by their charitable arm Legacy Leisure since that contract began.*

Following the closure of the leisure centres across the country with effect from 21 March 2020, as the result of guidance from Government responding to the COVID19 pandemic, Parkwood Leisure gave notice to the Borough to terminate their contract with RBWM as they considered Force Majeure applied and as such they did not consider it possible for the Centres to generate the income necessary to continue to pay the contract concession fee to RBWM.

Although the Borough rejected the notice to terminate at the time it was served, after taking legal advice, and considering the wider impacts on the leisure market across the county, and the ongoing impacts on Parkwood Leisure and their operations, the Borough recognised Parkwood could give a valid termination in June, and it would be better to negotiate ad managed contract termination and transfer.

The Legacy Leisure Trust has not ceased to operate but it was agreed that the contract between RBWM and Parkwood Leisure would come to a managed end, as the alternative proposal Parkwood offered, was not considered value for money for RBWM.

A range of options were therefore investigated and reviewed and the most advantageous option identified was to create a new Charitable Incorporate Organisation (CIO) who could take on the contract to the run the leisure centres when the contract with RBWM ends. This CIO has been established and is Leisure Focus.

A managed transfer by means of a Business Transfer Agreement have been prepared to deal with the contractual issues, and a new contract will commence on 1st August when the contract with Parkwood Leisure ends on 31st July 2020.

Leisure Focus Trust is a Charitable Incorporated Organisation (CIO) which is regulated by the Charity Commission; the details for Leisure Focus Trust can be found via the link provided below.

<https://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/CharityFramework.aspx?RegisteredCharityNumber=1190095&SubsidiaryNumber=0>

As a CIO, Leisure Focus Trust is completely independent from the Council.

The relationship between Leisure Focus and the Council is governed by a contract between the parties. The Contract is a concession contract where the Council has outsourced the management of its leisure facilities to Leisure Focus Trust who have the right to run the leisure centres and retain the revenue (subject to the payment of a fee to the Council).

The Contract with Leisure Focus Trust will contain various mechanisms in terms of how the Council will maintain governance in respect of monitoring and reporting of the Leisure Services, these will include:

- *Monthly review Meetings with the Council's Contract Manager;*
- *Quarterly review Meetings with the Council's relevant Director or Head of Service;*
- *Attendance by the Trust at meetings of elected Members to review contract performance and to present service development plans as part of the annual service planning process.*

This arrangement reflects the arrangements that have worked well for the last five years.

d) Ed Wilson of Clewer and Dedworth West ward will ask the following question of Councillor Johnson, Leader of the Council:

For the sake of transparency will the Royal Borough provide the terms of reference for the review of financial governance that it requested from CIPFA?

Written response: The document provided (see below) sets out the agreed process for the Review of Financial Governance undertaken by CIPFA.

e) Andrew Hill of Boyn Hill ward will ask the following question of Councillor Johnson, Leader of the Council.

Why were Members not informed in the Council report of July 2019 that surveyors Knight Frank had, in March 2019, given an Existing Use Value (EUV) for the Nicholson Shopping Centre (excluding hope value) of £18m?

Written response: Thank you for your question.

This is not something the Council has had access to until recently where it was referenced in the planning information, as part of the Financial Viability Assessment.

This is an existing use valuation, commissioned by Denhead (the company set up by Arelli and Tikehau), that covers the Nicholsons shopping centre including the ownerships of Denhead relating to their freehold interest in the site and their long leasehold interest until 2135 on the whole shopping centre site which included the income producing assets, in addition to the part of freehold that the Council owns.

Denhead purchased their freehold and the long leasehold interest of the whole site from the receivers of Vixcroft (Maidenhead) Ltd.

The long leasehold (115 years remaining), also includes the ability for them to develop the whole site, without permission being unreasonably withheld from the freeholder (the council).

In regards to the Council's freehold interests they were valued via an independent valuation (a section 123 report) by Lambert Smith Hampton and the conditional contract that was negotiated with Denhead for their sale is in line with that. From the information we have seen in the Financial Viability Assessment it is also in line with

that. The Knight Frank Valuation is not in the public domain, but would have been used to support the Financial Viability Assessment.

f) Andrew Hill of Boyn Hill ward will ask the following question of Councillor Coppinger, Lead Member for Planning and Maidenhead:

During any pre-application meetings for major developments, is it standard protocol for officers to advise applicants that the approved tall building policy in the Maidenhead Area Action Plan (para 3.40) limits maximum building heights to 12 storeys in order “to respect the size and compact nature of Maidenhead and respect visibility from the surrounding countryside to the existing level”?

Written response: *It is standard practice to reference the adopted Maidenhead Town Centre AAP, including its policy on tall buildings, if relevant to the scheme in question. It is also standard practice, for pre-application advice to refer to emerging policy, evidence base work and other material considerations. While emerging policies have limited weight at this time, they set out the Royal Borough's strategic intentions for sites within Maidenhead Town Centre and are relevant when advising on major schemes.*

Royal Borough of Windsor and Maidenhead

Financial Assurance Programme

Proposal
August
2019

Contact details

In the first instance please direct all enquiries to:
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1. Introduction

- 1.1. The Managing Director of the Royal Borough of Windsor and Maidenhead commissioned CIPFA to undertake a short review of Financial Governance.
- 1.2. The recommendations of this review are set out below:
 - A detailed review of the way financial management operates within the Royal Borough is undertaken as a matter of urgency.
 - The Council put in place measures that ensure that they comply with all applicable local government financial legislation, regulations and codes of practice.
 - A fundamental review of the financial resilience of the Council is undertaken that includes both the medium-term financial plan and the capital programme.
 - The capital programme is reviewed to ensure all schemes have appropriate and robust business cases, have clear delivery outcomes and that risks are appropriately managed.
 - The role and support to the current s151 Officer is reviewed.
- 1.3. CIPFA are uniquely placed to provide a multi-skilled team of experienced finance professionals to provide support to implement these recommendations for the Royal Borough. This will ensure an adequate Financial Assurance Programme is put in place and delivered to ensure compliance with statutory provisions and regulations.
- 1.4. This proposal outlines the work that CIPFA propose to assist achievement of the implementation recommendations which provide a firm financial assurance framework for the Royal Borough for the future.

2.The Proposal

- 2.1. CIPFA will provide a consultancy team to put in place and deliver a Financial Assurance Programme to fulfil the recommendations in the review.

Phase One: Planning 19th August – 30th August - Six Consultancy Days

- 2.2. CIPFA will work with the Council to develop a detailed work-plan that will have, 30, 60 and 90 day deliverables and milestones. The work-plan will include:

Financial Management

- 2.3. CIPFA will review the quality of financial management of the organisation by using benchmarks of best practice in the public sector. This includes assessing the capability and capacity of the Finance team against the following Financial Management measures:
- Delivering Accountability
 - Supporting Performance
 - Enabling Transformation
- 2.4. Data will be gathered through reviewing documentation and through one-to-one interviews and work-shops with finance staff and recipients of financial services.
- 2.5. The output will be a report setting out conclusions and recommendations to ensure the Finance team are delivering improved performance. This may include recommendations on changing the structure of the team, training or additional capacity.

Compliant Documentation

- 2.6. CIPFA will work with the in-house team to ensure that the following documentation is compliant with legislation and relevant CIPFA codes of practice. These will include an updated:
- Budget Report
 - Medium Term Financial Plan
 - Capital Strategy
 - Treasury Management Strategy
- 2.7. The aim is to ensure all statutory reporting documentation is both compliant and legal and meets the needs of the Borough.
- 2.8. CIPFA will ensure this activity is undertaken alongside, and as part of the Council's current financial planning cycle, to ensure the production of these documents provide robust planning documentation for the future.

Financial Resilience of the Council: Revenue and Capital

2.9. Within the work to produce compliant documentation, CIPFA will undertake a detailed review of the comparative spending position across all service areas of the council relative to all other unitary councils to provide 'challenge' to ensure

- A detailed review of the assumptions in the MTFP, and Capital Funding Strategy will be undertaken to ensure that the Council is not taking an unrealistic level of risk.
- A review of the adequacy of savings plans and business cases for improved comparative value for money.
- A robust process is undertaken for proposing to Members a 2020/21 Budget and Medium Term Financial Plan
- Appropriate arrangements are in place for borrowing funds and updated Member reporting

Capital programme Management

2.10. In reviewing the capital programme, CIPFA will determine whether schemes have appropriate business cases and that measures are in place for managing large schemes via a gateway process (yet to be determined) that:

- Is timed to ensure funding is guaranteed and affordable before expenditure is incurred
- Ensures that governance procedures for agreeing individual schemes are adequate and are reviewed where necessary.

Financial Governance

2.11. CIPFA will undertake, a review of the way financial matters are managed across the council and will seek to improve the arrangements through proposals to change processes and procedures, supported by appropriate guidance for members and officers, including delivery through training workshops and other means.

2.12. This will include proposals for changed arrangements for reporting financial matters to Members both in-year and through normal out-turn reporting.

2.13. In particular we will propose that revised processes are put in place for agreeing the 2020/21 Budget and Medium Term Financial Plan, the Capital Programme and improved monitoring processes for revenue, capital and Treasury Management are put in place.

Production of the Plan

2.14. We will propose to undertake the construction of the work-plan jointly with the s151 Officer and the appropriate staff over two days. This would focus on the resources required and the capability to deliver.

Sign-Off and Reporting of Work-Plan

- 2.15. The work plan will specify the detail of the deliverables and the resources required, the methods to be adopted and the milestones proposed.
- 2.16. The work-plan, its priorities and detailed objectives will be agreed and signed off by the Managing Director prior to commencement of the delivery phase.
- 2.17. The plan will be reviewed and reported on against milestones on a two-weekly basis.

Phase Two: Support and Delivery 2nd September – 31st December

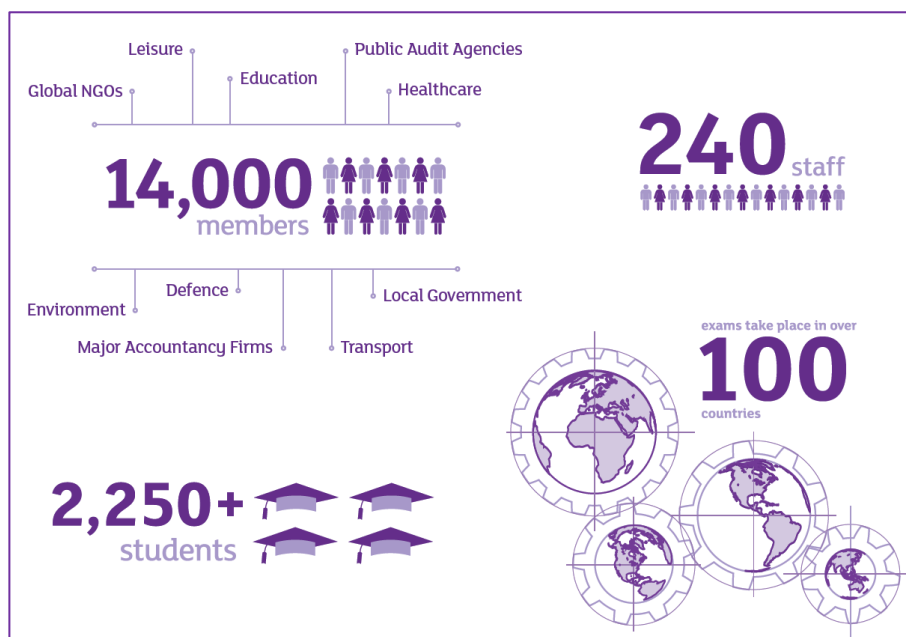
80 – 100 Consultancy Days dependant on in-house resources

- 2.18. It is anticipated to deliver the work-plan produced in stage 1 CIPFA will provide an experienced Finance Director/s151 who will work on-site commencing 2nd September 2019. Additional support arrangements will supplement this individual at the equivalent of 0.5 fte.
- 2.19. The Consultants to be used will be dependent on a discovery process, the capability and capacity within the Council and what the Royal Borough prioritises. This will be discussed during Stage One and reflected in the workplan.
- 2.20. Our initial estimate of 80-100 days is based upon our current expectation. We expect to refine that as part of Stage One and to propose a more detailed estimate of days required at the end of Stage One.
- 2.21. Progress against the plan will be reported every two weeks to a steering group recommended to comprise of the Chief Executive, Leader, Executive Member for Finance and John O'Halloran Director Business Advisory and Consultancy, CIPFA.

3. Our approach

- 3.1. Our approach to this work is both advisory and practical.
- 3.2. Through our work our intention is that the council will develop a robust set of compliant documentation that reflects the good practice that we advise should be adopted and the processes and procedures that will support that documentation going forward.
- 3.3. We will ensure that the decisions that are taken on the content of that documentation can be taken with confidence as to the underlying financial detail, with a reasonable perspective of the future in order to ensure that the council's plans are as robust as possible. To do this we will provide practical and reasoned advice and challenge to enable the council to formulate sound financial choices.
- 3.4. As well as delivering the work-plan we will work alongside the s151 Officer to provide support and mentoring to him and his team.
- 3.5. CIPFA will use a variety of sector specialists depending on what is found to be needed to deliver this project, based on the needs of the work-plan as agreed by the council.
- 3.6. As well as access to numerous experienced associates; previous Directors of Finance and consultants who have worked for large accountancy firms, the consultancy team will have access to CIPFAs technical resources who write the sector guidance and can ensure the work carried out fits in with best practice.

6. Why choose CIPFA?



- **Dedicated public services specialist**
- **Comprehensive educational portfolio**
- **Global reach**
- **Access to a professional community**
- **Strategic, operational and financial expertise**

Dedicated public service specialist

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications is the gold standard for public financial management. This includes the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions.

Comprehensive training portfolio

CIPFA's training capacity is comprehensive. It offers a wide range of courses through its in-house education and training centre, CETC, and through partnerships with carefully selected training partners, these courses can be delivered both across the UK as well as internationally.

Access to a professional community

CIPFA offers accountants and financial managers a unique professional forum in which practitioners can share concerns, work through solutions and raise standards in performance. Since becoming the first UK accountancy body to introduce compulsory Continuing Professional Development (CPD), CIPFA has led the way in offering a framework for practitioners to manage their ongoing CPD commitment by offering up to the minute, practical training and education for its members and other leaders involved in public sector accounting and governance.

Broad expertise

Our services encompass all strategic and operational management issues within the public sector and our wealth of experience and expertise is always translated into clear and practical advice which can be accessed through various services, for example courses and conferences, property and asset management solutions and consultancy.



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