

Minutes of Cabinet

Date: Wednesday, 18 May 2022

Venue: The Liz Cantell Room, Ealing Town Hall, New Broadway,
Ealing, W5 2BY

Present:

Councillors: Mason (chair), J Anand, Blacker, Costigan, Donnelly, Mahfouz, Manro, Nagpal, Raza and L Wall

Also Present:

Councillor Shaw, Chief Whip, was also present.

In accordance with paragraph 2.6(a) of the Constitution, Councillors Malcolm and Gallant addressed the Cabinet with regard to the following items:

Item 7 - Budget Update Report (Councillor Malcolm and Gallant)

Item 8 – Regulator of Social Housing Voluntary Referral and Notice (Councillor Malcolm and Gallant)

1 Apologies for Absence

There were none.

This meeting was held in a hybrid format with members and officers able to join the meeting remotely.

However, regulations did not allow for members attending virtually to be counted as present in the attendance section of the minutes, and their attendance would not count as attendance in relation to section 85(1) of the Local Government Act 1972.

Members attending virtually would be able to speak but would not be able to vote.

Councillors joining remotely:

There were none.

2 Urgent Matters

Item 7 – Budget Update Report

Item 8 – Regulator of Social Housing Voluntary Referral and Notice

Pursuant to rule 15(1) of the Council's Access to Information Procedure Rules, the Monitoring Officer was satisfied that it was appropriate for both decisions to be taken in any event.

Reason for urgency

Impractical to comply with the forward plan requirements.

3 Matters to be Considered in Private

Item 8 contained confidential appendices but was not taken in private as it was not necessary to discuss the confidential information provided.

4 Declarations of Interest

There were none.

5 Minutes

Resolved:

That the minutes of the Cabinet meeting held on 6 April 2022 be agreed and signed as a true and correct record.

6 Appointments to Sub Committees and Outside Bodies

There were none.

7 Budget Update Report

Resolved

That Cabinet:

- i) Approves £3.001m revenue growth allocation approved by Cabinet in February 2022 towards the priorities set out in section 3 of the report and appendix 2.
- ii) Notes and agrees the new General Fund capital programme additions totalling to £11.588m (section 3, paragraph 4.3 and appendix 1) and approves the following:
 - a) Additional capital funding requirement of £11.588m to be funded from mainstream borrowing with associated revenue financing cost to be met from the revenue growth fund as set out in section 4.
 - b) Delegates authority to the Chief Finance Officer (Section 151) to release budget to be incepted into the capital programme (thereby giving authority to spend) upon approval of a detailed business case and option appraisal in accordance with the frameworks set out in the approved Capital and Treasury Management Strategies.
- iii) Authorises the Executive Director or Director with responsibility

to carry out and take into account necessary due diligence, consultation, and equality analysis assessment for each proposal prior to taking the final decision on whether to implement.

Reason for Decision and Options Considered

Following on from the approval of the 2022/23 General Fund budget by Cabinet in February 2022 and Council in March 2022, the report sought approval for £3.001m of funding originally set aside as for potential in-year uncertainty/volatility to be allocated against delivery of key activities and outcomes supporting council priorities. The Council would continue to consider the necessary funding requirements for delivering its priorities as part of the annual medium term financial strategy (MTFS) and budget process.

The Council had continued to invest in services that experienced significant and continued demand pressures, with prioritisation being given to the most vulnerable groups. Against the current backdrop of the cost-of-living crisis exacerbated by the rising inflation and energy prices, council services continued to operate in a challenging resource environment where small demand change can lead to material budget variances. Thus, the reason for the Council wanting to redirect some of the growth towards supporting services to the most vulnerable such as the care sector. The proposed investment for a total of up to £14.589m (capital £11.588m and revenue £3.001m) was complementing the c£15m of revenue investment already built into the 2022/23 general fund budget.

It was necessary to consider the appropriateness of budget allocations relatively early on in the financial year and in doing it was important to view the total budget allocations in the round taking into account those amounts set-aside and already contained in the MTFS for pressures such as pay and contractual inflation. When viewed as a whole, it was reasonable to make the funding referred to in the report available given one of the most challenging cost pressure areas was in adults social care, which the majority of the funding being released contributes towards addressing.

8 Urgent Matter - Regulator of Social Housing Voluntary Referral and Notice

Resolved

That Cabinet:

- i) Notes the receipt and contents of the Regulatory Notice dated 11 May 2022.
- ii) Authorises the Chief Executive, following consultation with the Director of Legal and Democratic Services (monitoring officer), to enter into a Voluntary Undertaking with the Regulator of Social Housing.
- iii) Notes that a further report will be brought to Cabinet by November 2022 informing it of the outcome of the response to

the Regulatory Notice.

- iv) Notes that the report fulfils the requirements of the duty of the Monitoring Officer to report failings by the Council of statutory obligations.

Reason for Decision and Options Considered

Background

On 25 February 2022, the Council wrote to the Regulator of Social Housing (RSH), the body that provides independent oversight of all registered social housing providers including local authorities and Housing Associations and made a voluntary self-referral for a potential breach of the Home Standard.

The Home Standard set out expectations for registered providers of social housing to provide tenants with quality, safe accommodation and a cost-effective repairs and maintenance service. The RSH's role was to set those consumer standards and to intervene where failure to meet the standards had caused, or could have caused, serious harm to tenants.

As part of the 2021-22 Council internal audit programme, two audits, confidential Appendices A and B, were completed to assess the adequacy of the Council's controls in place in relation to housing health and safety and fire safety compliance. The two audits concluded no assurance for fire safety, and limited assurance across other areas of health and safety statutory compliance.

In respect of fire safety, the Council had a statutory duty to regularly assess the risk of fire and to take precautions to prevent harm. Similarly, alongside specific statutory duties in relation to gas, electrical, asbestos and water safety, the Council had a duty under the Health and Safety at Work etc Act 1974 to not expose our tenants, and others, to risks to their health and safety.

The fire safety audit found that the Council did not have effective controls in place in relation to its responsibilities for fire safety. At the time of the audit, a significant number of Council properties were recorded as not having an in-date Fire Risk Assessment (FRA) and there was no process to record and track FRA remedial actions. While the Council had recently improved and were able to provide assurance that all properties requiring an FRA had one in place, it was unable to state that all remedial works had been completed and monitored.

Similarly, the internal audit had identified failings across gas, electrical, asbestos and water safety, including that there was no evidence of monitoring of remedial works.

The RSH assessed the evidence provided as part of the self-referral and

confirmed that the Council had indeed breached the Home Standard. As a result, the RSH published a Regulatory Notice on 11 May 2022 which was attached to the report as Appendix C. The Notice remained 'live' for 12 months or until full compliance was achieved.

Next Steps

Recovery

Since identifying the issues the Council had embarked on a rapid recovery programme overseen by a weekly Housing Safety Executive Board chaired by the Interim Chief Executive. The Board's focus was to aid the recovery to compliance through work to verify data and strengthen systems and processes.

To assist the recovery process the Chief Executive also commissioned an external review of the Council's position on housing health and safety. This work had included a review of the information available on our current and projected situation on Health and Safety Compliance and through interviews with key staff, to identify weaknesses and understand any legacy issues that may be hindering performance. This work, completed by ARK consultancy, had now been completed and was attached to the report as Appendix D.

This external review had now been used to strengthen the recovery plan where appropriate and ARK themselves had been retained to provide assistance and oversight to the recovery programme.

The Council's approach was to be entirely transparent with tenants and leaseholds about the need to improve standards. In March 2022 a special edition of Housing News was sent to all tenants and leaseholders telling them that the Council had voluntarily referred to the RSH and was being completely transparent about the need to improve safety standards. The Spring edition of housing news provided a further building safety update to all tenants and leaseholders and alongside a statement placed on the Council's website, provided information to the public about the regulator's findings.

Understanding the fundamental causes that led to the current situation.

A further report currently being completed by Altair housing consultancy was underway and would forensically investigate the circumstances leading to the current poor performance and make recommendations on the competence and capability at an individual level that may have contributed to the situation. It would also examine the extent to which escalation of performance weaknesses took place to the Senior Leadership Team and beyond that to elected Members.

Working with the Regulator of Social Housing

The recovery plan set out the scope and timeline for improvements required to satisfy the RSH that the Council was meeting the regulatory standard and that the Regulatory Notice served could ultimately be removed. To aid recovery the Council had procured additional contractor resources to refresh

the leadership of the Housing Service and deliver compliance work.

The role of the RSH was set out in the Housing and Regeneration Act 2008 (as amended). In broad terms the RSH was responsible for the economic regulation of registered housing providers and for setting and monitoring consumer standards such as how tenants' homes are maintained and kept safe, how issues such as anti-social behaviour are tackled and how tenants are empowered to get involved in the decisions that affect them and their homes.

All Council housing providers were subject to the consumer standards and the RSH would intervene if these were breached and there was a significant risk of serious detriment to tenants or potential tenants. The RSH was duty bound to perform its functions in a way that minimises interference and is proportionate, consistent, transparent, and accountable.

The RSH expects the Council to have systems such as audit, risk management and performance monitoring in place that allow the early identification of problems and take effective action to resolve them.

Where appropriate the Regulator expects providers to self-refer. The Council's approach had been to acknowledge failure and take responsibility for self-improvement. In this instance it was very likely that the RSH would seek to work with the Council to achieve the necessary corrective actions.

Section 125 of the Housing and Regeneration Act 2008 allowed a social housing provider to present to the Regulator a Voluntary Undertaking. The report sought authority from Cabinet to enter into such an agreement. If Cabinet agrees, the Council would approach the Regulator with a summary of the detailed compliance recovery action plan and make a binding undertaking that the Council would meet all obligations in the plan. The RSH would consider the content of this and would decide if the Voluntary Undertaking was sufficient to address the breach identified and if the terms of the Undertaking were satisfactory. If the RSH agrees the Voluntary Undertaking would be entered into by the Chief Executive.

9 Date of Next Meeting Resolved

That Cabinet notes that the next meeting of Cabinet would be held on 15 June 2022 at 7pm.

Meeting commenced: 6.00 pm

Meeting finished: 6.35 pm

Signed:

Dated: Wednesday, 15 June 2022

P Mason (Chair)