



Date: **01 June 2021**  
Our ref: **Extraordinary Cabinet/Supplementary Agenda**  
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## **EXTRAORDINARY CABINET**

**8 JUNE 2021**

An extraordinary meeting of the Cabinet will be held at **7.00 pm on Tuesday, 8 June 2021** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

### **Membership:**

Councillor Whitehead (Chair); Councillors: Albon, Duckworth, Everitt and Yates

## **SUPPLEMENTARY AGENDA**

- | <b><u>Item</u></b> | <b><u>Subject</u></b>   |
|--------------------|---|
| <b>3.</b>          | <b><u>MARGATE TOWN DEAL UPDATE AND NEXT STEPS</u></b> (Pages 3 - 10)                    |
| <b>4.</b>          | <b><u>RAMSGATE FUTURE INITIATIVE AND LEVELLING UP FUND</u></b> (Pages 11 - 16)          |
| <b>5.</b>          | <b><u>COST AND FINANCING OF DISCIPLINARY AND GRIEVANCES MATTERS</u></b> (Pages 17 - 22) |

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## Margate Town Deal Update and Next Steps

<b>Extraordinary Cabinet</b>	8 June, 2021
<b>Report Author</b>	Natalie Glover, Project Manager
<b>Portfolio Holder</b>	Cllr Ruth Duckworth, Cabinet Member for Estates and Economic Development
<b>Status</b>	For Information
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	No
<b>Ward:</b>	Margate and Cliftonville wards

### Executive Summary:

A Town Investment Plan for Margate was submitted to the Ministry of Housing, Communities and Local Government (MHCLG) in December 2020. In March 2021 the Margate Town Deal Board received Heads of Terms from MHCLG with an in principle offer of up to £22.2m to deliver the Margate Town Investment Plan. The Margate Town Deal Board and project team will submit a final prioritised project list, estimated financial profiles, details of the number of full business cases to be drafted, and monitoring and evaluation baseline reports to MHCLG.

This report aims to provide updated information relating to the Margate Town Deal process including next steps.

### Recommendations

Cabinet is asked to note the report

### Corporate Implications

#### Financial and Value for Money

The Council is the Accountable Body for the Margate Town Deal. These responsibilities include, but are not limited to:

- Upholding the Seven Principles of Public Life (Nolan Principles)
- Ensuring decisions are made by the board in accordance with good governance principles
- Ensuring transparency requirements are met
- Monitoring and evaluating the delivery of individual projects
- Submitting regular reports to MHCLG
- Receiving and accounting for the Town's funding allocation

# Agenda Item 3

Once the business cases for the Towns Deal projects have been through the council's own assurance and evaluation process, the Section 151 Officer is required to provide an assurance statement to MHCLG as part of the Summary Document, prior to the release of funding.

The Section 151 Officer is required to scrutinise and approve regular monitoring returns (at least six monthly) to MHCLG. These returns will cover total and forecast spend, alongside output metrics.

All the investment and costs associated with the Margate Town Deal are fully funded from external grants and contributions. Governance arrangements will be put in place to ensure all expenditure relating to the interventions will be managed within the total package of support provided, and to ensure there is no risk of financial exposure to the Council.

The Council has been provided with some capacity funding to deliver the development stage of the Town Deal. The project team will work with project sponsors to ensure expenditure stays within this funding allocation. Further reports will be provided to the Corporate Management Team and Cabinet by way of updates on the project delivery for the Margate Town Deal.

## **Legal**

There are no legal implications arising directly from this report.

## **Corporate**

Thanet District Council is the accountable body for the Margate Town Deal, however there is a Board in place made up of statutory, community and business representatives who are responsible for signing off (alongside the Council) the Margate Town Investment Plan. The Board has been in place for just over a year and the Council is working with colleagues in the Cities and Local Growth Unit at the Boards Governance arrangement in order to reduce any risks from the Board to the Council and to ensure that the Board has representatives that can support the next phase of the Margate Town Deal project development.

The Margate Town Deal supports the Council's corporate priority for Growth, including encouraging the rejuvenation of our high streets and continuing to promote tourism.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report does not relate to any specific aim of the equality duty, it is an update.

## CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Growth*
- *Communities*

### 1.0 Introduction and Background

1.1 In September 2019, the Ministry of Housing, Communities and Local Government (MHCLG) announced that 101 towns in England will benefit from part of the £3.6 billion Towns Fund and Margate was one of them (with up to £25m of investment potentially available). The objective of the Fund is to drive the economic regeneration of towns to deliver long term economic and productivity growth through:

- *Urban regeneration, planning and land use*
- *Skills and enterprise infrastructure*
- *Connectivity*

The Government provided a full [Prospectus](#) and [Further Guidance](#), which were used when putting together the Margate Town Deal Board and developing the Town Investment Plan.

1.2 The Margate Town Deal Board submitted the Town Investment Plan on 11 December 2020. The Investment Plan and other related documents are available on the Councils [website](#).

1.3 The Margate Town Deal Board received their Heads of Terms proposal from MHCLG on 9 March 2021, outlining an in principle offer of up to £22.2m investment for the town. The Margate Town Deal Board and Thanet District Council, as the Accountable Body, accepted these Heads of Terms on 24 March 2021, a [blog update](#) about this is available on the Councils website.

1.4 The in principle offer for the Margate Town Investment Plan is for up to £22.2m that was against an ask of £29m. The shortfall in the offer has meant that the Margate Town Deal Board has been required to decide which projects went forward to the Business Case Development phase and which needed to be re-scoped or excluded. The Board has now been through a process of re-visiting the projects that featured within the Town Investment Plan to re-prioritise in order to deliver the Plan.

### 2.0 The Prioritisation Process and Framework

## Agenda Item 3

- 2.1 To secure investment, the Board had to re-prioritise the projects within the Town Investment Plan to deliver a Deal for Margate of up to £22.2m investment, against the £29m ask. The Board wanted to ensure there was a transparent scoring process, which could stand up to any scrutiny and that would ultimately ensure that the projects chosen are those best placed to deliver against the priorities of Margate's Town Investment Plan.
- 2.2 Specialist external consultants, PRD Ltd were commissioned to support the prioritisation process and produced a framework to rank projects against the original requirements of the [Towns Fund](#) programme, the priorities of the [Margate Town Investment Plan](#) and the Government's [Green Book](#) business case criteria. A copy of the framework used by the Board to support their decision making process will be published on the Margate Town Deal website. In addition to the Framework scores and project ranking, the Board was provided with further information gathered either from the project proposals or from the sponsors themselves. Discussions were held at various Board meetings about the best way to prioritise the projects, whilst reaffirming the priorities for Margate.
- 2.3 The final project list, including the funding allocation was agreed by the Board on 14 May, 2021 and is as follows:

Intervention	Description	£'m
<b>Intervention 1:</b>  <b>Scaling Creative Production and Skills</b>	Creative Land Trust	6.000
	Outreach programme	0.900
	Theatre Royal	2.000
	<b>Sub-total</b>	<b>8.900</b>
<b>Intervention 2:</b>  <b>Coastal Wellbeing</b>	Access Walpole	1.100
	Testing new uses, participation and skills programme	1.200
	Improved Coastal Environment: Oval Bandstand	0.500
	Improved Coastal Environment: Skatepark	0.750
	<b>Sub-total</b>	<b>3.550</b>
<b>Intervention 3:</b>  <b>Active Movement and Connections</b>	Highway Interventions	<b>5.250</b>
	Public Realm Interventions	

<b>Intervention 4: Heritage Assets</b>	Dreamland	4.000
	Winter Gardens	0.5
	<b>Sub-total</b>	<b>4.500</b>
<b>Total</b>		<b>22.2</b>

2.4 Project sponsors and key stakeholders have been informed of the outcome directly. The project team and Margate Town Deal Board are now working to submit the necessary documentation relating to the final project list to MHCLG.

### 3.0 Capacity funding

3.1 In March Thanet District Council were invited to apply for further capacity funding from the Towns Fund to support the delivery of the Town Deal. This is in addition to the original £161,000 capacity funding allocated to Margate in 2020. Despite the capacity funding being well oversubscribed, the project team secured an additional £70,000 of capacity funding for specialist consultancy services in two distinct areas:

1. Further engagement activities to support the business case development phase.
2. Establishing the Creative Land Trust, featured within the Scaling Creative Production and Skills intervention within the Town Investment Plan, and developing the full business case for this project. This then has the potential to be a fast tracked project, if the project development and business case can be delivered within six months, as set out by MHCLG.

Pleydell Smithyman Ltd have been commissioned to deliver a community and stakeholder engagement plan to support the Margate Town Deal over the next twelve months as business cases are developed. An invitation to tender for the contract to establish the Creative Land Trust has been out to tender on the Council's procurement portal and is due to be commissioned.

### 4.0 51-57 High Street Margate

4.1 In the Prime Minister's speech 'Build Build Build' on 30 June 2020, it was announced that the Government would be bringing forward £5 billion of capital investment projects, including £96m to accelerate investment in town centres and high streets. This aimed to provide all the towns selected for Town Deals with £500,000-£1,000,000 to spend on projects such as improvements to parks, high streets, and transport. The funding was allocated on a population size basis, with Margate receiving £750,000.

4.2 The £750,000 grant funding from the Ministry of Housing Communities and Local Government (MHCLG) has been included in the Council's Capital Works Programme, to be spent on a capital renovation project for 51-57 High Street Margate. The project

is in alignment with the Towns Fund Further Guidance provided by MHCLG in June 2020.

- 4.3 The capital works being proposed as part of the project include;
1. replacing the roof, ensuring the building is watertight, protecting it from further deterioration;
  2. the stripping out of the internal materials and fittings that will enable access to the Asbestos Containing Materials that require removal
- 4.4 Delivering the capital works will enable the vision for the building to be more clearly defined in line with any repurposing of the high street and town centre. It is proposed that the building could form part of a portfolio of assets in the new Creative Land Trust that is proposed within the Margate Town Deal Town Investment Plan.
- 4.6 Following the necessary approvals being granted by Homes England, the Joint Venture partner on the building, the opportunity for main contractors to tender for this contract is now live on the procurement portal with a closing date of 18 June 2021, after which this capital project will enter the delivery phase. The delay on this project has been reported to officials in the Cities and Local Growth unit, who are supportive of the project in Margate.

## 5.0 Next Steps

- 5.1 Having prioritised the projects from the original Town Investment Plan, the final project list will be submitted to MHCLG with the required accompanying information. The Margate Town Deal will then enter the business case phase which can take up to twelve months. On completion of the business cases the Council will be required to submit a summary document, which includes information from all of the business cases, that has been through a local assurance process. Once this has been agreed by MHCLG funding can be allocated to the individual projects for delivery. The business cases will need to be developed against the Government's Green Book (or for highway schemes, WebTAG) which requires specialist consultants to be commissioned to support the technical elements of this work. The format and requirements for this are set-out in the [Business Case template](#) and [guidance](#).
- 5.2 There will also be a review of the governance structure and membership of the Margate Town Deal Board to ensure that it is robust and has the necessary skill sets for the next phase of Business Case Development. This will be tested with the Towns Fund Delivery Partners and the Cities and Local Growth Unit/MHCLG.
- 5.3 As the accountable body, the Council will need to set out what assurance processes it will put in place in relation to the delivery of each of the Margate Town Deal projects. This will involve Section 151 Officer approval.

Contact Officer: *Natalie Glover (Project Manager)*

Reporting to: *Louise Askew (Director of Regeneration)*

## **Background Papers**

All background papers are included as links in the report

## **Corporate Consultation**

**Finance:** *Chris Blundell (Director of Finance)*

**Legal:**

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## Ramsgate Future initiative and Levelling Up Fund

<b>Extraordinary Cabinet</b>	8 June, 2021
<b>Report Author</b>	Louise Askew, Director of Regeneration
<b>Portfolio Holder</b>	Cllr Rick Everitt, Cabinet Member for Ramsgate Regeneration
<b>Status</b>	For Recommendation
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	No
<b>Reasons for Key</b>	NA
<b>Ward:</b>	All wards in Ramsgate

### Executive Summary:

Thanet has the opportunity to bid into the Government's Levelling Up Fund as it is a Priority One area. This report recommends the submission of a bid for Ramsgate on the basis of the information outlined in the report. The timescales are incredibly tight, with a deadline of submission on the 18 June, 2021.

The submission of a bid to the Levelling Up Fund will complement other opportunities that are available to Thanet, including the Parkway Station, Future High Street Fund, Margate Town Deal and Heritage Action Zones. This funding opportunity will support the delivery of regeneration projects in Ramsgate, which will undoubtedly support the whole district's economic recovery and levelling up of its communities.

### Recommendation(s):

Cabinet is asked to agree the following recommendations:

1. Approve submission of a Levelling Up Bid to the 18 June, 2021 deadline;
2. Delegate authority to Chief Executive, in consultation with the Leader, for final sign-off of the Levelling up Bid.

### Corporate Implications

#### Financial and Value for Money

As a Priority one area for the Levelling Up Fund Thanet District Council will receive £125,000 in capacity funding to support the development of the bid. However, the funding is not due to be allocated to the council until after the first round submission deadline. The council allocated some of the Business Rates pool funding to support the development of the bid, by commissioning external specialist consultants.

The Levelling Up Fund encourages a minimum contribution of 10% which can come from a local authority or other third party (public or private sector). This funding cannot be “in kind”. Any contribution made must be in the form of an actual financial contribution. This will be considered in the development of the projects for the bid.

## **Legal**

There are no legal implications arising directly from this report. The draft bid document will be shared with the Legal Department by way of consultation.

## **Corporate**

The Levelling Up Fund is a competitive funding programme being run by the Ministry of Housing, Communities and Local Government (MHCLG). The Council have commissioned experienced consultants to support the development of the Bid to help Thanet put the best proposal forward for Ramsgate. Thanet is a priority one area, and the submission of a bid for Ramsgate, on the basis of the area’s deprivation statistics and need for levelling up will provide a good case for a successful submission.

A submission to the Levelling Up Fund supports the Council’s corporate priority for Growth, including continuing to look for a viable future for the Port of Ramsgate and Royal Harbour, encouraging the rejuvenation of our high streets and continuing to promote tourism.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

The stakeholder engagement in the development of the Ramsgate Future Investment Plan and Levelling Up Bid will be open to all of Ramsgate’s communities, residents, businesses and other organisations. A stakeholder equality assessment was carried out at the start of the stakeholder engagement exercise.

## **CORPORATE PRIORITIES**

This report relates to the following corporate priorities: -

- Growth
- Communities

## 1.0 Introduction and Background

- 1.1 In February 2021 the Council launched a major new initiative for Ramsgate to generate and take forward ideas for the town's development over the next few years. The aim of the Ramsgate Future initiative is to build upon existing and forthcoming regeneration schemes to ensure that activity in the town is brought together into a cohesive vision to help transform the town.
- 1.2 The initiative includes the development of a Town Investment Plan which will be based on statistical evidence about Ramsgate, local engagement and a review of the opportunities available for regeneration, in order to create an overarching ambition for the town that unites the wider community.
- 1.2 As the Council was preparing to commission consultants to engage with Ramsgate's communities and develop a Town Investment Plan, central Government announced the Levelling Up Fund, with tight timescales for submission. This is the first round of the Levelling Up Fund, however further rounds are yet to be announced with their timescales for announcement unknown, priorities for delivery unknown, but still within the same timescales for project delivery.

## 2.0 Levelling Up Fund priorities

- 2.1 Thanet was identified as a Priority One area for the Levelling Up Fund, the priority was identified through a number of different metrics. Step one measured the 'need for economic recovery and growth', including productivity, measured using gross value added (GVA) per hour; 16+ Unemployment rate; and skills, measured using the proportion of the working-age population without a national vocational qualification (NVQ). Step 2 included measures 'need for improved transport connectivity' (in England only) and 'need for regeneration' in addition to 'need for economic recovery and growth'. The need for improved transport connectivity was based on average journey times to employment centres by car, public transport and bike. The need for regeneration is based on commercial and dwelling vacancy rates. In order to band the district areas an index was created and further information can be found [here](#).
- 2.2 The Levelling Up Fund is intended to support investment in places where it can make the biggest difference to everyday life, including deprived towns and coastal communities. Central Government recognises that there are significant economic differences across the country, and tackling these and driving prosperity as part of 'levelling up' in different regions is a priority. The Fund will focus on capital investment in local infrastructure and will prioritise bids that invest in regeneration and growth in places in need and areas of low productivity and connectivity.
- 2.3 The Fund will focus investment in projects that require up to £20m of funding, with some larger transport schemes being considered. The local authority is required to consult a range of local stakeholders, potential relevant local stakeholders and partners include local businesses, public transport providers, police and emergency services, community representatives, environmental representatives and universities and FE Colleges. It is also suggested that where relevant, we should also consider

how to reach stakeholders from harder to reach communities. The stakeholder engagement will need to be evidenced in the Bid. MP's are also required to back one bid in their area that they consider to be a priority, and provide written support of that bid.

- 2.4 This round of funding will focus on smaller transport projects, town centre and high street regeneration; and support for maintaining and expanding cultural and heritage assets:
- Transport investments including (but not limited to) public transport, active travel, bridge repairs, bus priority lanes, local road improvements and major structural maintenance, and accessibility improvements. We are requesting proposals for high-impact small, medium and by exception larger local transport schemes to reduce carbon emissions, improve air quality, cut congestion, support economic growth and improve the experience of transport users.
  - Regeneration and town centre investment, building on the Towns Fund framework to upgrade eyesore buildings and dated infrastructure, acquire and regenerate brownfield sites, invest in secure community infrastructure and crime reduction, and bring public services and safe community spaces into town and city centres.
  - Cultural investment maintaining, regenerating, or creatively repurposing museums, galleries, visitor attractions (and associated green spaces) and heritage assets as well as creating new community-owned spaces to support the arts and serve as cultural spaces
- 2.5 Investment is expected to focus on supporting high priority projects that will make a visible impact in local areas, and it is recognised that priorities for investment will vary from area to area. Projects should also be aligned to and support the Government's Net Zero goals.
- 2.6 To apply to the first round of the Levelling Up Fund, bids must be submitted to the MHCLG by noon on Friday 18 June 2021. Projects are required to demonstrate investment or begin delivery on the ground in the 2021-22 financial year, and all funding provided from the Fund to be spent by 31 March 2024. The [full prospectus](#), [FAQ's and technical notes](#) can all be found online.

## 3.0 Thanet Levelling Up Fund Bid

- 3.1 35% of Thanet's Lower Super Output Areas (LSOA) are in the top 10% most deprived LSOAs nationally - that is out of 32,844. The average for Kent is 6%. Of Thanet's 18 LSOA in the top 10% of most deprived areas, two thirds are in the wider Margate town and the other third are in the wider Ramsgate town. Although there are a greater number of LSOAs in Margate in the top 10%, Margate has recently been offered up to £22.2m as part of the Town Deal programme, which is aimed to deliver regeneration where it is most needed, supporting economic growth, job creation and wellbeing.

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- 3.2 In April 2021 Thanet had an unemployment rate of 9.7% , which was an increase from 2020 when it was 7.4% and an increase from April 2019 when it was 5.3%. However, the relaxing of restrictions, and undoubtedly the fact that we are heading into a busy season for Thanet, there was a decrease of 1.3% since March 2021. In comparison The claimant count for out of work benefits in April, 2021, compared to Thanet's 9.7% was 5.9% in Kent, 5.3% in the South East and 6.4% in Great Britain. There are some areas of Thanet that are above the district average. Four of Ramsgate's wards are between 11-12% unemployment rate for April, 2021 and three of Margate's wards are above the average, with one at 13.2% and two over 18%.
- 3.3 These figures, alongside the fact that 35% of LSOAs in Thanet in the top 10% most deprived, highlights not only why central Government is focusing on areas like Thanet in its levelling up agenda, but also why Thanet District Council should be submitting proposals and bids to these programmes.
- 3.2 Thanet has had a number of successful bids to central Government, and other national organisations, including the Future High Street Fund, Parkway Station, Heritage Action Zone programmes and the successful bid to MHCLG, with an offer of up to £22.2m for the Margate Town Deal. The Margate Town Investment Plan provides a plan that outlines the ambition for Margate's regeneration. A decision was taken to deliver a similar programme of stakeholder engagement for Ramsgate in order to develop a Town Investment Plan for Ramsgate's Future. It will play an important role in drawing together in one plan all of the opportunities that Ramsgate has, and help to identify key priorities for delivery.
- 3.3 In order to make a significant step change for the whole of Thanet, the most deprived places in the district need regeneration support in order to 'level up'. Margate has a significant opportunity through the Margate Town Deal, it is therefore proposed that a bid for Ramsgate should be submitted to the Levelling Up Fund. The investment opportunity across Thanet is significant, and will benefit Thanet's communities tremendously in this period of recovery required due to the Covid 19 Pandemic.
- 3.4 Through a competitive procurement process Pleydell Smithyman Ltd has been engaged to deliver a programme of stakeholder engagement. This includes online questionnaires for Ramsgate's residents and communities, the town's businesses and third sector organisations. The engagement will also include questionnaires from people across Thanet/East Kent and visitors to the town where possible, in order to get a rounded view or what people think Ramsgate needs for its regeneration. Through the same process of procurement, PRD Ltd and We Made That were engaged to develop the Town Investment Plan and the Levelling Up Fund submission. The Investment Plan will include a range of projects that will deliver in the short, medium and long term, they will be evidence based against factual data about Ramsgate, the stakeholder engagement and the opportunities available to Ramsgate. Some of the project proposals within the Investment Plan will form the Levelling Up submission for Ramsgate.
- 3.5 The Town Investment Plan (and funding bid) will benefit from work that has already taken place in understanding what opportunities there are in Ramsgate for regeneration. This includes previous bids for assets in and around the harbour and the development of a strategic, high level study for the Port of Ramsgate. The council

has engaged with stakeholders about the Port of Ramsgate study and this will be included in the evidence for the Ramsgate Future Town Investment Plan.

## 4.0 Options

- 4.1 The Council could wait for the next round of the Levelling Up fund to submit a bid, which could give more time in developing a proposal, however it is understood that the timeframe for delivery is the same and projects would need to be delivered by March 2024. Announcements have not been made about the timescales for bid submission, the amount of money that could be bid for or the funding priorities. It would be a risk to wait, potentially for up to a year, without understanding what the next round of the Levelling Up funding might look like. It is therefore not considered to be an option.
- 4.2 Thanet could submit more than one bid as it is covered by two MP constituency areas. However, this is likely to be an oversubscribed programme (based on other similar funding programmes) and although there is significant need across Thanet it is proposed that the best option is to focus on one bid that has an ask that is at least the £20m potential bid, or greater.
- 4.3 The timescales in place since the announcement of the funding allocation to this programme and the requirements for bids are significantly tight, and the decision was taken to bring in specialist consultants in order to deliver a programme of engagement and to draft the funding bid. With more time a longer programme of engagement would have taken place in the development of the projects that will ultimately be submitted within the bid, however the programme of engagement will support the bids priorities and help to develop an evidenced and clear Town Investment Plan for the long term.

Contact Officer: *Louise Askew, Director of Regeneration*  
Reporting to: *Madeline Homer, Chief Executive*

### Corporate Consultation

**Finance:** *Chris Blundell (Director of Finance)*

**Legal:** *Estelle Culligan (Director of Law and Democracy)*

## Cost and Financing of Disciplinary and Grievances Matters

<b>Extraordinary Cabinet</b>	8 June 2021
<b>Report Author</b>	Chris Blundell, Director of Finance and Deputy Section 151 Officer
<b>Portfolio Holder</b>	Cllr Rob Yates, Portfolio Holder for Finance, Administration and Community Wealth Building
<b>Status</b>	For Decision
<b>Classification:</b>	Not Restricted
<b>Key Decision</b>	Yes
<b>Reasons for Key</b>	Expenditure not in budget and exceeding virement rules
<b>Ward:</b>	All

### Executive Summary:

Retrospective Cabinet approval is required for legal costs of approximately £247,000 incurred to date associated with on-going disciplinary and grievance proceedings. Cabinet members are also asked to approve resources to facilitate the current plan for these proceedings, as future costs are estimated in the region of £450,000 to £486,000.

As an urgent decision outside the budget framework, the Chair of Overview and Scrutiny has been informed and has given consent for the matter to be dealt with by Cabinet. A report will be brought to the next meeting of Council on 15 July.

### Recommendation(s):

1. That Cabinet approves the expenditure relating to these matters, in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules
2. That a one-off 2020-21 supplementary General Fund revenue budget of £247,000 be retrospectively approved for external legal costs already incurred in relation to on-going disciplinary and grievance proceedings, to be funded from earmarked reserves;
3. That a one-off 2020-21 supplementary General Fund revenue budget of £486,000 be approved to create a financial provision for future anticipated external legal costs in relation to on-going disciplinary and grievance proceedings, to be funded from earmarked reserves; and
4. Cabinet members asked to note the current and forecast cost position.

## Corporate Implications

### Financial and Value for Money

The financial implications are detailed within this report.

### Legal

Rule 4 of the Budget and Policy Framework Procedure Rules in the Constitution states that all decisions outside the budget and policy framework should be made by full Council. This matter is being brought to Cabinet as an urgent decision since the next meeting of Council is not until July. The Constitution states that Cabinet can deal with this decision as an urgent matter, subject to the agreement of the Chair of Overview and Scrutiny Committee.

### Corporate

The matters behind this report are subject to ongoing proceedings dealt with by IDSC/GPC and other tribunals under the correct procedures.

### Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.

This report may impact upon the above duties due to the substance of the matters being considered by the IDSC, GPC and other tribunals.

### Corporate Priorities

This report relates to the following corporate priorities: -

- *Growth*
- *Environment*
- *Communities*

## 1. Introduction and Background

- 1.1. The purpose of this report is to seek retrospective budget approval for the costs incurred to date associated with on-going disciplinary and grievance proceedings and to approve the budget for further anticipated costs.
- 1.2. The report also has been prepared for Cabinet's consideration by the Director of Finance because, in his capacity as Deputy Section 151 Officer, he has concerns about the affordability of the costs expended and expected and it is appropriate for these concerns to be formally reported to members given the financial position of the authority.

## 2. The Current Situation

- 2.1. When the firm was appointed in March 2020 to provide governance support, costs were estimated at £40,000 in-line with the value of the initial purchase order. Subsequent advice provided to the Director of Finance from the Corporate Director of Governance in July 2020 provided an estimate of total costs being £50,000.
- 2.2. The third and most recent budget monitoring report for 2020-21 was presented to Cabinet on 14 January 2021. Within that report spending relating to external legal advice was forecast to result in a £86,000 overspend for the financial year 2020-21, there was no forecast of any costs beyond this timeframe within the report. This overspend solely related to the external legal advice procured for the matters referred to in this report.
- 2.3. However, these processes have become increasingly complex, with additional matters being considered by the IDSC. Additionally, other claims have been made. Concerns regarding increasing costs were first discussed by senior managers in mid April, although no figures were known at that time for estimated future costs. The external legal firm provided details of existing and future anticipated costs which are appropriate to bring before Cabinet. These costs were provided to the Director of Finance on 19 May 2021 by the Director of Law & Governance.
- 2.4. Consequently, the Director of Finance is now reporting to Cabinet that costs incurred to the end of May 2021 relating to the on-going disciplinary and grievance proceedings total £247,000 (of this £141,515 relates specifically to 2020-21).
- 2.5. Future potential costs are estimated to range between £450,000 to £486,000, resulting in total legal costs forecast to conclude these matters being between £697,000 and £733,000. These estimates have been produced by the legal firm that have been contracted to oversee and manage these processes and are based on the maximum time and processes necessary to bring matters to conclusion. The costs estimate includes the legal firm's costs, but also those of external investigators and Counsel.
- 2.6. Of costs incurred to date £114,000 relates to overall process management, £111,000 to internal processes under the council's control and £22,000 for external

employment tribunals. Future anticipated/potential costs are split between £78,000 to conclude our internal processes and £408,000 for external employment tribunals.

- 2.7. Cabinet will understand that members of the IDSC and GPC need to receive sufficient legal advice and support to facilitate fair and proper decision making and that it is the remit of those Committees and not Cabinet to determine the level of support they require. Therefore, members are asked to note the current and forecast cost position.
- 2.8. It should be noted that the forecasts represent the Council's costs only and therefore there is a risk that the Council's financial exposure could exceed this envelope. There is also a risk that costs may exceed these current estimates if the proceedings' durations extend beyond current expectations or if appeals are lodged.

### **3. Budget Approval**

- 3.1. A budget has not yet been approved for this expenditure and as such is currently classified as an unfinanced overspend. The Financial Procedure Rules (FPRs) delegate authority to the Section 151 Officer to authorise budget adjustments of between £20,000 and £50,000, whereas Cabinet approval must be sought for all budgets approvals which are in excess of £50,000.
- 3.2. As these legal overspends relate to a number of different individual matters the £86,000 that was previously reported could have been disaggregated below the £50,000 limits specified in FPRs and therefore budget approval may have been given by the Section 151 Officer or his deputy. However, with spend now being incurred at a higher level, even with disaggregation, it is necessary to seek Cabinet approval of the budget for the spend for further anticipated expenditure.
- 3.3. The Council has controls in place to ensure that orders cannot be approved without a budget in place. Considering the initial estimates of costs, and that delegations permit his approval of budget adjustments upto £50,000, the Director of Finance approved the override of these budgetary controls to allow orders to be raised to engage and contract with the legal advisors.
- 3.4. The legal firm that is overseeing and managing these processes was selected because of their particular expertise in dealing with constitutional and local government employment issues and because the matter could not be managed in-house because of perceived conflicts of interest.
- 3.5. Contracts that exceed £100,000 should be subject to a formal tender process, this would have been undertaken at the outset if it were anticipated at that stage that costs would exceed this threshold. A CSO waiver was prepared in December 2020 to cover costs which exceeded the £100K threshold. This waiver was not approved, however, as it is Council policy not to approve such waivers retrospectively once a contract is in place.
- 3.6. It should be noted that it is necessary to involve an external firm of solicitors to ensure independent management of these processes.

- 3.7. All other suppliers, such as investigators or barristers have been procured in accordance with the CSOs or there are applicable exemptions in place.

## 4. Financing and Budget Context

- 4.1. The Council's finances are in a delicate position, even before the pandemic our reserves were relatively low and we had a history of not delivering savings or income targets. The impact of the Covid pandemic is expected to put further strain on the Council's finances, the full extent of this will not be known until the year-end position is finalised and this will be reported to Cabinet on 29 July 2021.
- 4.2. As such, at this time it is not possible to specify what the exact financing source of the £247,000 for costs to date will be, but inevitably will need to be financed from our limited earmarked reserves. This will be a challenging task to identify available funding, particularly in light of the requirement to allocate £3m of earmarked reserves within 2020-21 to address the financial impact of Covid.
- 4.3. To comply with relevant accounting standards it will be necessary to create a provision in the 2020-21 accounts to fully cover anticipated future expenditure. Therefore, anticipated total costs of £733,000 will need to be recognised and again financed from our reserves in 2020-21.

## 5. Options and Recommendations

- 5.1. A budget must be approved and financing identified for the costs incurred to date of £247,000. The suppliers have already been paid and therefore a budget needs to be approved and financing identified as explained previously. Furthermore, a provision will be created in the 2020-21 accounts for the anticipated future costs and as such the budget for these costs must be approved by Cabinet.
- 5.2. It is not the responsibility of Cabinet, but that of the IDSC and the GPC to determine the level of legal advice and support required to facilitate and conclude these proceedings. Therefore, Cabinet members are asked to note the costs position.

Contact Officer: *(Chris Blundell, Director of Finance)*

Reporting to: *(Tim Willis, Deputy Chief Executive and Section 151 Officer)*

### Corporate Consultation

**Finance:** *Not Applicable*

**Legal:** *(Estelle Culligan, Director of Law and Democracy)*

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