Report to Cabinet

Date:	**02 March 2021**
Title:	**Financial Sustainability – comparison with LB Croydon**
Relevant councillor(s):	Martin Tett, Leader
Author and/or contact officer:	Richard Ambrose, s151 Officer
Ward(s) affected:	None specific
Recommendations:	**(1) Note the contents of the report, including appendix 1, which sets out the Buckinghamshire Council position compared to the key finding from the LB Croydon public interest report.** **(2) Consider the proposed actions in Appendix 2 to further strengthen financial management arrangements across the Council.**
Reason for decision:	It is imperative that the authority has strong financial management and grip, especially in light of being in the middle of a global pandemic and being in the first year of its existence.

1. Executive summary

1.1 Following the issuing of a Section 114 notice by Croydon LBC this report reviews the findings of the recent public interest report over Croydon's financial failures, together with other reported issues around financial sustainability in local government, which has been exacerbated as a result of Covid-19.

1.2 The report then goes on to compare Buckinghamshire Council with the findings from the public interest report. In conclusion Buckinghamshire is in a very different place to LB Croydon and no concerns have been raised by the external auditor. The authority compares well with others and there is a good record in terms of the legacy authorities managing spend within their overall budgets. Furthermore, there are sufficient levels of reserves (unallocated and earmarked), there is high member involvement in the budget setting process and a strong Audit & Governance Committee exists.

1.3 However, national pressures in relation to the uncertainty caused by the pandemic as well as demand and supplier failure pressures, particularly within children's and adults services, are still pertinent and there is no room for complacency. Furthermore, in the medium term there is huge uncertainty around future funding following the increased government debt as a result of Covid-19.

1.4 A number of potential enhancements to financial management are highlighted in section 4 of the report, including a review of the council's strategy around commercial acquisitions, more regular reporting and transparency around subsidiary interests of the Council, regular reviews of all external loans provided, the reviewing and strengthening of the finance model / relationships with directorates, the establishment of budget boards across all directorates and a more regular review of the Council's reserves. Appendix 2 sets out a proposed action plan.

2. National Context

2.1 There has been much reported recently in both the trade and national press about the financial sustainability of local government, particularly those authorities with care responsibilities. Financial concerns have been heightened as a result of both the risks surrounding commercial acquisitions and the implications of the pandemic on authorities with low levels of reserves.

2.2 A few years ago, the National Audit Office (NAO) published a report around the financial sustainability of local authorities that spoke about the real term reductions in Central Government funding together with the increasing overspends, particularly relating to Social Care due to rising demand pressures. The NAO noted that recent spending review periods had been characterised by one-off short-term fixes and that "this increasingly crisis-driven approach to managing local authority finances also risks value for money." This approach has continued over the last few years.

2.3 In 2018 Northamptonshire County Council (NCC) attracted much media attention for being the first local authority in over 20 years to issue a Section 114 notice which means that, in the opinion of the Chief Finance Officer, "the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure". Prior to this notice the Secretary of State had already sent in an Inspector to carry out a best value review of the authority. The external auditor had also qualified their value for money audit opinion in the two preceding years.

2.4 The headline findings from the Best Value review was that NCC had failed to comply with its duty to provide best value in the delivery of its services and went on to recommend that two new authorities be created. These will come into existence on the 1st April 2021. Some authorities, including Buckinghamshire County Council (BCC), reviewed its position and practices in relation to the findings and although this showed that BCC was in a very different place to NCC it did result in a review of Financial Management across the Council with a detailed finance improvement plan being implemented, which helped tighten grip around finance.

2.5 Ministers have recently launched reviews at two councils. Nottingham City Council is undergoing a government review into its handling of "Robin Hood Energy" over which the authority incurred millions of pounds in losses, while Croydon LBC is the subject of a separate rapid review following the issuing of a Section 114 notice in the middle of November. This review is to focus on its governance, culture and risk management. Both reviews came after public interest reports by their external auditors after feeling that their warnings were not prompting enough action. It is likely that there will be more interventions over the next year as other authorities get into financial difficulties, which is being brought to a head as a result of Covid.

2.6 There has also been recent speculation about some authorities being in talks with government about requesting a capitalisation directive in order to assist with their short-term revenue position. Rob Whiteman, Chief Executive of CIPFA, recently spoke about a number of authorities being in talks with Government over capitalisation directives although MHCLG has refused to reveal the number and names of the councils.

2.7 Capitalisation would help smooth out previous revenue costs incurred and allow time to achieve financial stability over the medium term. LB Bexley has confirmed that it has been considering this and it is believed that some other authorities such as Wiltshire Unitary, Worcestershire CC and Cheshire East Unitary are also in talks with government about a possible capitalisation directive. All these authorities have relatively low levels of reserves.

3. Croydon LBC

3.1 On the 12th November Croydon LBC issued a Section 114 notice, the first since Northamptonshire County Council in 2018, meaning there is a high likelihood that the authority cannot balance its books (effectively bankrupt). This followed the publication of a public interest report (only issued in exceptional circumstances) over Croydon's financial failures in October by the external auditors (Grant Thornton). It stated that senior officers and councillors displayed a "collective corporate blindness" to the urgency of the council's financial position and repeatedly failed to act to tackle increasing overspends.

3.2 The Grant Thornton report says that at Croydon "financial resilience" had deteriorated over a number of years with pressures around children's and adults social care and dwindling reserves. Their solution was the hope that they would be given approval to capitalise day to day expenditure to address immediate problems.

3.3 The report's findings included: -

- Croydon borrowed £545m during the past three years to invest in housing and commercial property. This included a £200m loan to its own housing development arm Brick by Brick, which has yet to return a dividend as originally forecast;

- In 2018-19 the council invested £30m in the local Croydon Park Hotel, and £46m on a retail park (The Colonnades). The hotel fell into administration, and the retail park was closed in June. The report states that these investments "were not grounded in sufficient understanding of the retail and leisure market" and again demonstrate the council's strategy to "invest its way out of financial challenge rather than pay attention to controlling expenditure on core services" which was "inherently flawed";

- Across the past three years, it allowed a combined £39.2m overspend on adult and children's social care, with the Council failing to have any credible plans to address this;

- Errors in budget monitoring reports during 2019-20 forecasted a £0.2m overspend, after having made "one-off corporate adjustments" of £17.7m; an explanation, which was accepted at Cabinet "without challenge";

- In response to this problem, the council appointed a financial consultant who identified a budget gap for 2020- 21 of £65m together with £21m of in-year savings needed, which the auditors concluded exceeded the reserves, but neither the cabinet nor scrutiny and overview committee referred this to full council. Grant Thornton stated that "this was a failure of governance and showed a lack of understanding of the urgency of the financial position."

3.4 The auditors main concern was that repeated signs of financial mismanagement were ignored and that this demonstrated a significant failure of governance. The report also reveals concerns around the council's subsidiary companies and suggests that members did not provide sufficient challenge to officers' claims of how the budget could be brought back under control.

3.5 There has been a recent independent strategic review of its two property development vehicles. This reviewed governance arrangements between LB Croydon and the companies as well as a financial and operational review of the subsidiaries. The findings included the unavailability of any robust financial information, the lack of management accounts, significant underperformance against the business plans, poor governance arrangements and a loan portfolio that has not been properly managed by the council or companies.

3.6 Local Government secretary, Robert Jenrick, said that "the situation in Croydon is deeply concerning. There does appear to have been catastrophic financial mismanagement. Ultimately, it is the people in Croydon who will suffer as a result of the failed council." The findings of the public interest report have been fully accepted by the council. Croydon's new leader has recognised that "these problems have deep roots" and apologised to residents, staff and partners, whilst recognising that sorting out the issues was the absolute priority of the council.

4. The Position at Buckinghamshire Council

4.1 It is important given the general and specific concerns around local government finance that Buckinghamshire Council reviews its current position and practices. *Appendix 1* sets out a detailed comparison between Buckinghamshire Council and LB Croydon against the key findings from the public inspection report. We have concluded that we are not in the same position as Croydon although there are actions that we can take to further strengthen our position.

4.2 The external auditors have raised no concerns over the finances and the council has a reasonably healthy level of reserves, both General Fund (unallocated) and earmarked. Croydon had applied virtually all of its reserves to propping up its recurrent spend. At Buckinghamshire Council the level of unallocated reserves equates to circa 10% of the net operating budget. This compares favourably with other authorities and is above the old recommended level of 5% that used to be quoted for guidance. Levels of reserves should be based on the financial risks facing an authority.

4.3 Despite being a new authority there is a lot of member involvement linked to the finances of the council, including with the budget setting process. The draft budget undergoes a thorough budget scrutiny process. Furthermore, there is a strong Audit & Governance Committee (together with a risk management sub-committee) at Buckinghamshire. The Committee scrutinises and challenges internal audit findings, including financial governance and controls, and the risks facing the authority (strategic risks, directorate risks, Covid risks and financial risks).

4.4 Treasury management reporting, including the strategy, will be considered by the Audit & Governance Committee at their next meeting. Benchmarking borrowing information against unitary and shire counties, as at 30 September 2020, shows that the average debt per authority is £404m compared to £358.5m for Buckinghamshire Council. When comparing the average debt per head of population then the average debt for unitary/counties is £940 compared to Buckinghamshire's at £662 (based on ONS mid-year 2019 population figures). This is 30% lower for Buckinghamshire.

4.5 Although both the underlying financial position and the operational practices in Buckinghamshire compare favourably with Croydon there is no room for complacency and there have been legacy issues linked to systems integration. The review of how the council compares with Croydon has identified some areas of improvement. These include: -

- Ensuring a strong grip of the finances in each of the directorates and consideration should be given to setting up formal budget boards across each directorate, as already exist in some of the directorates;
- Review of all current commercial properties to re-assess the strategy and risks for the new authority, with consideration being given to the current economic conditions;
- More regular review and assessment of earmarked reserves, including their purpose and future planned movements;
- Stronger governance and reporting arrangements around subsidiary interests, including Farnham Park Trust Fund, Higginson Park Trust Fund, Consilio and Aylesbury Vale Estates;
- Carrying out regular reviews of loans made to external bodies to ensure that repayments are being made promptly and a financial viability assessment is made to assess any potential risk to future repayments.

4.6 There is a current finance improvement plan that has been looking to establish a common finance vision, operating principles and a consistent culture across both corporate and service finance, as well as addressing legacy issues around processes and systems. Furthermore, there has been a focussed task & finish group to understand and address the legacy systems issues experienced. These have led to an action plan having been developed around four themes: -

- Working as a great team – having clear roles & responsibilities with a clear purpose and set of team priorities;
- Looking after each other – support and understanding of challenges;
- All using the best tools, systems and processes – ensuring one council processes (not legacy), easy systems & processes and access to fundamental training;

- All with the right skills, knowledge and behaviours – learning and growing and being solution focussed.

4.7 A further work-strand to take forward is that around the financial model and how finance best works with the directorates to ensure strong financial management and grip. This is critical to the future success of the finance function and requires a consistent and appropriate approach across all directorates.

4.8 Now, more than ever with the uncertainties surrounding the financial implications of the pandemic, it is important for councils to scrutinise their financial positions and governance practices. These public interest reports point to a solution in which good governance practices (with appropriate challenge as necessary) sit at the heart of budget setting, financial oversight and well-run subsidiary undertakings. It is imperative that any issues identified are addressed early and urgently.

4.9 In conclusion there is a strong approach to financial management at Buckinghamshire Council and the Council compares well with others, especially in terms of levels of reserves and not being over-reliant on borrowing. Furthermore, there is a culture of openly talking about issues so that these can be addressed appropriately. The review has identified a limited number of improvement areas and *Appendix 2* sets out a proposed action plan for these based on the findings from comparing Buckinghamshire Council with that of LB Croydon.

5. Other Options

5.1 Not applicable.

6. Legal and financial implications

6.1 There are no legal implications arising directly from this report. Recent changes to guidance around the issuing of s114 notices means that Chief Finance Officers must now first discuss their financial position with MHCLG in order to explore what further options and/or financial assistance may be available.

6.2 Taking forward any actions may require some additional resource capacity, but this is likely to be time limited. The report is all about ensuring that the authority has good financial management / financial sustainability.

7. Corporate implications

7.1 It is important that all members and managers within the organisation remain alive to the environmental conditions prompting this report and take appropriate action to mitigate the risks and issues emerging in order to provide the most effective service to residents within the resources available and to avoid reputational damage.

8. Local councillors & community boards consultation & views

Not applicable

9. Communication, engagement & further consultation

This will depend on any actions agreed.

10. Next steps and review

Progress against the agreed action plan will be reported back to CMT and Cabinet Members on a quarterly basis.

11. Background papers

Appendix 1 – Croydon Public Interest Report and comparison with Buckinghamshire Council.

Appendix 2 – Action plan for Improvements.

12. Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk.