

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Democratic Services
committee.services@tmbc.gov.uk

24 November 2021

To: MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Overview and Scrutiny Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Thursday, 2nd December, 2021 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members are encouraged to participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence

5 - 6

2. Declarations of interest 7 - 8
- Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

3. Minutes 9 - 12
- To confirm as a correct record the Minutes of the meeting of the Overview and Scrutiny Committee held on 7 October 2021

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Matters for Recommendation to the Cabinet

5. Northamptonshire County Council - Interventions Report 15 - 44

A report summarising the key issues arising from the Commissioners' Interventions Report at the former Northamptonshire County Council. Members are asked to review the issues raised and consider whether TMBC is adequately equipped to avoid these issues occurring. Members of this Committee are also asked to consider what role the Committee can play in supporting the 'financial agenda', and more generally whether Members feel that specific training might be needed.

6. Urgent Items 45 - 46

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

7. Exclusion of Press and Public 47 - 48

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

8. Urgent Items 49 - 50

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr J L Sergison (Chairman)

Cllr Mrs A S Oakley (Vice-Chairman) and Cllr M O Davis (Vice-Chairman)

Cllr M C Base
Cllr J L Botten
Cllr C Brown
Cllr R I B Cannon
Cllr R W Dalton
Cllr M A J Hood
Cllr F A Hoskins
Cllr S A Hudson

Cllr Mrs F A Kemp
Cllr D W King
Cllr J R S Lark
Cllr H S Rogers
Cllr M Taylor
Cllr D Thornewell
Cllr F G Tombolis

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Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

Thursday, 7th October, 2021

Present: Cllr J L Sergison (Chairman), Cllr M O Davis (Vice-Chairman),
Cllr Mrs A S Oakley (Vice-Chairman), Cllr C Brown,
Cllr R I B Cannon, Cllr M A J Hood, Cllr F A Hoskins,
Cllr S A Hudson, Cllr D W King, Cllr H S Rogers, Cllr M Taylor and
Cllr D Thornewell.

(Note: As Councillors J Botten and F Tombolis were unable to attend in person and participated via MS Teams they were unable to vote on any matters)

Councillor Mrs T Dean was present in the Council Chamber pursuant to Council Procedure Rule No 15.21.

Councillors Mrs J A Anderson, Mrs S Bell, M D Boughton, V M C Branson, D Keers, D Lettington, B J Luker, P J Montague, W E Palmer and M R Rhodes participated via MS Teams and joined the discussion when invited to do so by the Chairman in accordance with Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors M C Base, R W Dalton and J R S Lark.

PART 1 - PUBLIC

OS 21/18 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

With reference to Item 6 (Special Expenses Consultation) and for reasons of transparency, Councillor Mrs Dean advised that she was the Chairman of West Malling Parish Council.

OS 21/19 MINUTES

RESOLVED: That the Minutes of the meeting of the Overview and Scrutiny Committee held on 11 March and 27 April be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET**OS 21/20 NORTHAMPTONSHIRE COUNTY COUNCIL - INTERVENTIONS REPORT**

The joint report of the Chief Executive, Director of Finance and Transformation and the Director of Central Services and Monitoring Officer summarised the key issues arising from the Commissioners' Interventions Report at the former Northamptonshire County Council. Members were asked to review the issues raised and to consider whether TMBC was adequately equipped to avoid these issues occurring. Members were also asked to consider what role the Overview and Scrutiny Committee could play in supporting the 'financial agenda' and, more generally, whether it was felt that specific training might be needed.

The Chairman commented that there was insufficient time at the meeting to give this item the in-depth consideration it deserved and invited Members to undertake an initial debate to identify issues/matters which could be given detailed consideration at a special meeting of the Committee in November. The Committee noted the need to ensure that the Council was properly equipped to deal with the issues identified in the Interventions Report and that, as the Cabinet alone could not solve all the problems, all Members needed to shape the way forward. The Committee was reminded of its role to challenge decisions, particularly those with financial implications, and acknowledged the need for training in addressing specialised matters such as estimates and budgetary control.

RECOMMENDED: That 

- (1) a Special Meeting of the Overview and Scrutiny Committee be held in November specifically to allow more detailed consideration on this subject; and
- (2) the Training Programmes provided through the Local Government Association be explored by the appropriate Officer and all members of the committee encouraged to register for the LGA's "Leadership Webinar on Scrutiny Essentials" to be held at 2.30 pm on 22 November 2021. The booking information and link to be circulated to Members.

*** Referred to Cabinet**

OS 21/21 SPECIAL EXPENSES CONSULTATION

The report of the Management Team provided details of the responses received to the consultation launched on 22 June 2021 regarding potential adjustments to the Special Expenses Policy. The report invited Members to consider whether the cost of the non-strategic Public

Conveniences located in Tonbridge and the cost of Christmas lights should be included within the Special Expenses Policy.

RECOMMENDED: That 

- (1) the Special Expenses Policy should be updated to include the non-strategic public conveniences which are located in Tonbridge;
- (2) the Special Expenses Policy should not be updated to include Christmas lighting; and
- (3) Cabinet be invited to consider the position of public conveniences across the Borough.

*** Referred to Cabinet**

OS 21/22 FINAL REPORT: MARKETING AND PROMOTION

Further to the Scoping report presented to the Committee on 11 March 2021, the report of the Chief Executive brought forward a revised protocol for marketing and promotion across the Council.

RECOMMENDED: That: 

- (1) the proposed charging structure for billboards in respect of commercial organisations, as set out at section 1.4 to the report, be endorsed and no charge be made in respect of charity events;
- (2) the move to promotional and marketing materials to be made available in digital formats only (in all but a limited number of exceptions) be endorsed;
- (3) the use of design agents to develop a corporate style and brand for the Council be endorsed; and
- (4) further evaluation be undertaken to better integrate the Council's communication channels, looking at the possibility of future marketing and promotion to go via the Head of Communications. Findings to be reported to the relevant Advisory Board.

*** Referred to Cabinet**

OS 21/23 REVIEW OF TONBRIDGE FORUM AND PARISH PARTNERSHIP PANEL

The report of the Leader of the Council and the Chief Executive provided details of the action taken to seek the views of community representatives and town and parish councils on the format and

operation of the Tonbridge Forum and the Parish Partnership Panel in order to improve engagement with the Borough Council.

RECOMMENDED: That

- (1) the proposed changes to Tonbridge Forum, as set out at section 1.2.4 of the report, be endorsed; and
- (2) the proposed changes to Parish Partnership Panel, as set out at section 1.3.2 of the report, be endorsed.

* Referred to Cabinet

DECISIONS TO BE TAKEN BY THE COMMITTEE

OS 21/24 SCOPING REPORT: EQUALITY AND DIVERSITY POLICY

The report of the Chief Executive provided an overview of the existing Equality and Diversity Policy and advised that a review be undertaken to improve the policy and identify best practice that could be adopted by the Council.

RESOLVED: That the approach identified in section 1.2 of the report to review and update the existing Equality Policy Statement be endorsed.

MATTERS FOR INFORMATION

OS 21/25 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN - ANNUAL REVIEW LETTER

The report of the Monitoring Officer set out the annual report of the Ombudsman regarding complaints received and dealt with over the period 1 April 2020 to 31 March 2021.

RESOLVED: That the report be Noted.

MATTERS FOR CONSIDERATION IN PRIVATE

OS 21/26 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 10.18 pm

Agenda Item 4

Any Executive Decisions which have been “called in”

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TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

07 October 2021

Joint Report of the Chief Executive, Director of Finance & Transformation and Director of Central Services & Monitoring Officer

Part 1- Public

Matters for Recommendation to Cabinet

1 NORTHAMPTONSHIRE COUNTY COUNCIL – INTERVENTIONS REPORT

A report summarising the key issues arising from the Commissioners' Interventions Report at the former Northamptonshire County Council. Members are asked to review the issues raised, and consider whether TMBC is adequately equipped to avoid these issues occurring. Members of this Committee are also asked to consider what role the Committee can play in supporting the 'financial agenda', and more generally whether Members feel that specific training might be needed.

1.1 Introduction

- 1.1.1 Members may be aware that in January 2018, the Secretary of State for Communities and Local Government announced an independent inspection of Northamptonshire County Council in the light of evidence including the external auditor's (KPMG) "adverse" value for money opinion in relation to the 2015-16 and 2016-17 accounts, publicly available budget documents, and the September 2017 Local Government Association peer review into the council's financial planning and management.
- 1.1.2 A report was published in March 2018 and this noted that the inspector had found that failures at the council were not due to a lack of funding, but instead were a result of **poor management, a lack of budgetary control as well as a culture which discouraged challenge.**
- 1.1.3 Subsequent to this, in May 2018 the Secretary of State announced that Commissioners were to be sent to the council. Regular reports have followed culminating in a "lessons learned" report published in June 2021.
- 1.1.4 For those interested, the entire history of this review can be found on the Gov.uk website at: <https://www.gov.uk/government/collections/inspection-into-the-governance-of-northamptonshire-county-council>

- 1.1.5 The last “lessons learned” report (June 2021) is appended at **[Annex 1]** for Members’ attention at this meeting.
- 1.1.6 It is not the purpose of this report to consider the detailed issues that occurred in another authority. The purpose is to reflect on the key issues raised and ensure that Tonbridge & Malling Borough Council is satisfactorily equipping itself to ensure that the issues raised in the interventions report are not able to be repeated here.
- 1.1.7 The report makes specific reference to the role of the Scrutiny Committee in this respect. It says:

“If financial circumstances deteriorate, the influence of the scrutiny committee should be boosted in respect of financial overview. For example, provide impartial and independent training and advice to Councillors through the Centre for Governance and Scrutiny, to enable the committee to scrutinise effectively key decisions on services, income and expenditure and learn how to question without aggression”.

In addition, it adds:

“Robust scrutiny arrangements reduces the potential for ill thought-through decisions and are an indication of strength and confidence in decision making. Conversely, weak and disempowered scrutiny easily admits the possibility of untested and over-optimistic decisions, and, ultimately, failure”.

- 1.1.8 It is clear that the Scrutiny arrangements within a local authority are fundamentally important in the delivery of adequate challenge.
- 1.1.9 The interventions report is broken down into 6 separate topics as follows, and each is discussed further below.
- 1) Leadership
 - 2) Strategic Direction
 - 3) Financial Management
 - 4) Service Failures/Service Transformation
 - 5) Challenge
 - 6) Culture
- 1.1.10 At the end of the interventions is a series of recommendations for the sector that Members (and officers) should review and consider.

1.2 Leadership

- 1.2.1 The report from the commissioners is blunt in its condemnation of the leadership demonstrated from both Members and senior management stating:

“There had been a complete failure of political and senior managerial leadership at the Council in the years preceding the Intervention. Rather than face up to its challenges, the leadership failed to tackle emerging issues, looked to lay blame elsewhere and chose instead to pursue fanciful solutions and remedies which were unlikely to succeed. It did not consider realistic or practical ‘bottom-up’ solutions.

From the outset of the intervention it was clear that Max Caller’s [head of the investigation] judgement was an accurate reflection of the lack of leadership and despite there being ‘many good, hard working dedicated staff’ the problems at the Council were a direct consequence of management failure. The wider failings of the Council flowed from this fault-line.”

- 1.2.2 Essentially, the stark conclusion is that ‘flawed’ leadership was the central catalyst for the wider failings.
- 1.2.3 The interventions report itself sets out the stance that the commissioners took in dealing with this ‘central’ failing. Ultimately, however, as Members may already be aware, a local government reorganisation was undertaken and Northamptonshire County Council ceased to exist from April 2021.

TMBC

- 1.2.4 Over the years, TMBC has prided itself on the solid working relationship between senior Members and the Management Team. As a key foundation block, this has helped this Council address critical issues in times of stress and challenge, and plan for the future.
- 1.2.5 Self appraisal is crucial to ensure that key foundations remain in place. This applies to both the Member dimension, and the senior management core.
- 1.2.6 Whilst it is obviously very important to recognise that key decisions are the responsibility of the democratically elected Members, as set out in the Constitution some level of decision making is delegated to officers. Striking the right balance for the operation, management and direction of the Council is essential. At the same time, a collaborative, respectful and professional working between Members and the officer core needs to be maintained.
- 1.2.7 The Protocol on Member-Officer relations contained within Part 5 of the Constitution seeks to encourage best practice and promote greater clarity and certainty between Members and Officers. It also sets out specific arrangements for the role of the Overview and Scrutiny Committee in ensuring that decisions of the Council are lawful and within the Budget & Policy Framework.

1.3 Strategic Direction

- 1.3.1 The commissioners reported that Northamptonshire council suffered from a lack of strategic direction. They stated:

“ At the outset it was clear that there wasn’t a realistic Council plan, county plan, workforce plan, IT plan, or a transformation plan and the approach to risk-management could best be described as under-developed.”

- 1.3.2 The commissioners worked with the council to agree a clear programme of work and define the benchmarks that would indicate success. Thereafter, performance was then measured against delivery.
- 1.3.3 One of the points made in the report is that getting the ‘basics’ right is essential. It would appear that the council in question had ‘lost its way’ in terms of some service delivery due to experimentation with shared services and the lack of governance which went with it. Whilst this might have saved money in the short term, it was not ‘best value’ for the council in terms of the outcomes.

TMBC

- 1.3.4 As Members are aware, TMBC has a number of high level plans and policies including: a Corporate Strategy, a Climate Change Strategy, an IT Strategy, a Digital Strategy (incorporating transformation) and of course a Medium Term Financial Strategy and Savings and Transformation Strategy. These strategies are reviewed by Members and are open to scrutiny by this Committee. Members need to ensure that these strategies are ‘fit for purpose’ and address the key issues affecting the borough.
- 1.3.5 During the first year of the pandemic, an addendum to the Corporate Strategy was developed in response to the pandemic and naturally steered the Council and its services in different ways. A second year addendum is being informed by the covid recovery process.
- 1.3.6 In recent years TMBC moved away from having a corporate set of performance indicators, but as Members are aware performance is reported to Advisory Boards. Members can, and should, seek as much performance information as they need in order to ensure that the Council is progressing in the right direction. Discussion is underway with the new cabinet regarding corporate performance indicators.
- 1.3.7 Management Team regularly review strategic indicators including income monitoring, salary monitoring, sickness rates, temporary accommodation rates, waste collection performance and complaints. These provide a context for organisational health and performance.

1.4 Financial Management

1.4.1 When the inspectors arrived, Northamptonshire council had exhausted its reserves, had an unfunded deficit and had issued a section 114 notice.

1.4.2 One of the key issues and potential 'fault lines' was that strategic financial management had been outsourced and there was little in-house expertise or capacity. In addition, basic housekeeping measures and good financial management were lacking.

1.4.3 In particular, the detailed points made, which could be relevant to any council, were:

- 1) an under-estimation of revenue budgets to a material level leading to overspending;
- 2) an imbalance between income and expenditure;
- 3) the use of one-off resources to fund ongoing revenue expenditure with no plans to replace them;
- 4) an adverse opinion from the external auditor on the authority's ability to deliver best value;
- 5) a lack of financial resilience when measured against CIPFA's financial resilience model;
- 6) a poor outcome from benchmarking financial services against CIPFA's financial management model;
- 7) a failure to close the accounts and publish the Statement of Accounts on time;
- 8) a failure to respond in a timely fashion to matters raised by the auditor in the ISA260 report;
- 9) a failure to disclose to the external auditor and / or to the Audit Committee weaknesses in the Council's financial systems, management or processes;
- 10) a poor outcome from independent inspections including an LGA Peer Review, and an Ofsted inspection that although rated as requires improvement has since proved to be a misplaced judgement;
- 11) a persistent failure to deliver savings targets in the short, medium and long term, and the lack of an appropriately skilled transformation team to support and monitor the progress of projects designed to deliver savings;
- 12) a high level of reliance on the use of reserves to fund ongoing revenue expenditure;

- 13) an inappropriate use of government grant funding;
- 14) an over-reliance on short-term funding sources such as the flexible use of capital receipts;
- 15) use of reserves for purposes for which they were not originally intended;
- 16) a weak system for financial monitoring and reporting and for informing members of cabinet, scrutiny and Council which is less than timely, complete, clear and relevant to decision making;
- 17) the likely issuing by the external auditor of a Report in the Public Interest; Later a decision was taken by auditors not to progress.
- 18) the issuing by the external auditor of an advisory notice under the Local Audit and Accountability Act 2014;
- 19) weak financial stewardship leading to routine financial processes (e.g. clearing suspense and control accounts and reconciliations) not operating effectively;
- 20) opaque, confused and jargon riddled reporting, written for the benefit of finance 'experts' rather than for the benefit of understanding by Councillors, residents and Council Tax payers;
- 21) weak governance associated with shared service arrangements and a lack of understanding of roles, remit and responsibilities.

TMBC

- 1.4.4 At TMBC, Members will be aware that rules pertaining to Financial Procedures are set out with the Council's Constitution. The Council's statutory (s151) finance officer is the Director of Finance & Transformation and is part of the Council's Management Team.
- 1.4.5 The Director of Finance and Transformation has two deputies for the statutory finance role – the Chief Financial Services Officer and the Financial Services Manager. The three officers work together to ensure that statutory financial requirements are maintained, and that appropriate advice is given to officers and Members. As Members are aware, all three officers are directly and exclusively employed by TMBC.
- 1.4.6 Regular financial monitoring reports ("Financial Planning and Control") are presented to the Finance, Innovation and Property Advisory Board. These are decision reports requiring Members to examine and note the financial position portrayed. In addition, information reports on council tax and business rates collection are reported routinely to the Advisory Board, giving Members assurance that key cashflow is being maintained. Investment performance is regularly reviewed by the Audit Committee.

- 1.4.7 During the budget cycle, the Advisory Board also receives detailed draft Estimates for Scrutiny – and the same information is similarly presented to this Committee under the Budget and Policy Framework. This is the opportunity for Members to scrutinise the draft estimates and consider whether or not the allocation of resources is meeting the Council’s objectives and vision. Recommendations made to Cabinet by both Board and Committee assist Cabinet in determining the budget for the forthcoming year.
- 1.4.8 More strategic financial matters are reported directly to the Council’s Cabinet. Members are aware that our financial planning takes the form of a 10 year Medium Term Financial Strategy. This is supported by a detailed 6 year capital plan and a Savings and Transformation Strategy.
- 1.4.9 Members are aware that the Council is facing the need to find significant financial savings in order to ensure there is a balanced budget by the end of the MTFS period, and that reserves are not depleted beyond the minimum thresholds Members have set.
- 1.4.10 Currently, the identification of new savings and the delivery of some other savings is at a difficult point and **Members should reflect on this within the context of some of the points set out in the list above (with particular reference to items 11 and 12)**. Members may want to refer to our joint report to Cabinet in July 2021 which set out the latest position and made a number of recommendations. The Director of Finance & Transformation will be reporting again to Cabinet on the MTFS at its meeting on 12 October.
- 1.4.11 Ultimately, Members working with senior officers have a duty to ensure the Council’s long term financial position is sustainable, and that ‘short term’ decisions do not jeopardise that longer term sustainability.

1.5 Service Failures/ Service Transformation

- 1.5.1 This section of the Intervention report referred very much to failings of ‘upper tier’ statutory services at Northamptonshire such as Children’s Services, Trading Standards and Emergency Planning.
- 1.5.2 The commissioners were keen to point out that the failures were **not** linked to a lack of funding (as in fact one of the service areas had received significant investment), but to poor management and decision making. Ultimately of course as we have already mentioned at paragraph 1.2.3, a local government reorganisation was undertaken and Northamptonshire County Council ceased to exist from April 2021.
- 1.5.3 The fact that the failings were NOT linked to lack of funding is a point of reflection because as we all know, this is often the reason cited for service failure.

TMBC

- 1.5.4 Whilst TMBC does not provide the same breath of services as Northamptonshire, the same principles apply nonetheless.
- 1.5.5 Members should reflect and consider whether they are receiving adequate performance information in order to assist them in determining whether strategic focus, management and decision making is resulting in satisfactory delivery of services and the best use of resources.
- 1.5.6 On reflection, if Members do not feel they are receiving sufficient information in order to make those judgements, formal requests should be made via Advisory Boards and Committees. In addition, where there are concerns, specific reports can also be commissioned via this Committee (fulfilling the scrutiny function) or the Audit Committee (particularly where there is a financial focus).

1.6 Challenge

- 1.6.1 The commissioners' report stated that there had been a 'mentality' at Northamptonshire whereby the challenges were not faced and the reality of the organisation's predicament was simply not acknowledged or accepted.
- 1.6.2 The adoption of this stance marginalised the Council's scrutiny function which should have provided effective checks and balances. It is reported that any dissenting voices were effectively ignored.
- 1.6.3 It was also noted that the council in question had a dismal track record in dealing with customer complaints, with the Local Government Ombudsman directly raising concerns.
- 1.6.4 Challenge was a **fundamental issue** in the interventions report. The commissioners said:

"A critical part of the intervention has been the establishment of meaningful challenge, scrutiny and transparency to the business of the Council.

We asked the Centre for Governance and Scrutiny to review how scrutiny functioned and propose an effective structure for the Council which we then adopted in full.

This included the scrutiny committee being chaired by an opposition Councillor and focusing exclusively on financial matters, as this was the most significant burden the Council was addressing."

TMBC

- 1.6.5 The importance of the scrutiny function cannot be underestimated. Positive challenge and transparency is 'healthy' and can tease out issues that may not

have come to the surface in the first instance. It also helps Members to ensure that best value for residents is being achieved.

- 1.6.6 As Members of this Committee are well aware, TMBC's Constitution provides for decisions taken by the Executive to be "called in" and reviewed once more before the decision is finally enacted. Members are reminded that the Constitution can be found at:

<https://www.tmbc.gov.uk/downloads/download/304/tmbc-constitution>

- 1.6.7 The specific responsibilities of this Committee, Overview and Scrutiny, are set out in the extract at **[Annex 2]**.
- 1.6.8 As mentioned earlier, this Committee reviews the Budget proposals under the Budget and Policy Framework each year and has also undertaken a programme of reviews to identify potential savings.
- 1.6.9 However, with the **significant** financial challenges facing the Council (Members are referred to the report to Cabinet in July 2021), it is perhaps timely for the scrutiny programme to be 'beefed up' in this regard.
- 1.6.10 Members of this Committee are asked to consider how they can contribute to the review of the Council's financial forecasts to assist in identifying options for consideration.
- 1.6.11 It may be that refresher training is required on the scrutiny role, and Members are asked to consider what might assist them in their roles.

1.7 Culture

- 1.7.1 The commissioners report a "weary" organisation at Northamptonshire where failure was expected and aspiration for improvement was weak.
- 1.7.2 It is clear from the commissioners' report that a clear management plan and good working culture for staff is key:

"The introduction of proper management practices has benefited staff and the new-found financial discipline has enabled an across the board pay increase for the first time since 2016.

The lack of pay increase in the intervening years was because of the decision to opt out of the local government pay structure. This, together with the removal of mandatory unpaid leave and the reinstatement of benefits that had been curtailed, such as appropriate sick pay, has been positively welcomed by staff and unions."

- 1.7.3 In their recommendations, the commissioners make the point that it is essential to energise the workforce by supporting what works and changing what doesn't, as they believe that nothing demoralises staff more than bad management. This of course links back to the theme about leadership and direction.

TMBC

- 1.7.4 It has long been recognised that our staff are the key foundation of this Council. Through the Joint Employee Consultative Committee, Members have a direct sounding board with staff where any issues can be heard.
- 1.7.5 We are however fortunate that generally speaking, we have a good working culture at TMBC where the roles of officers and Members are mutually respected.
- 1.7.6 Keeping staff informed of issues and changes is imperative in maintaining a health and positive culture, and this is something we always strive to achieve. This takes place in a number of ways e.g. through the JECC, regular all-staff emails from the Chief Executive, directorate-wide meetings on MS Teams etc. Feedback from staff is also encouraged through surveys and via the JECC.

1.8 General Observations

- 1.8.1 It is clear that the Scrutiny Committee in a local authority has a fundamental role, and that the challenge that should be provided by that Committee is essential in the overall decision-making framework. Challenge should not be seen as a negative act, but one which brings confidence.
- 1.8.2 It is of course appreciated that some more recent Members to the Committee may not have received specific training, and it may be that other Members may feel that they too could benefit from a greater training to enhance their input.
- 1.8.3 **Members are asked to consider their additional training would assist them in delivering their important roles within the Council's constitution.**
- 1.8.4 The Council has significant financial challenges ahead and much will be expected of the Cabinet in driving forward options for change. This Committee has the ability to support this role through challenge.

1.9 Legal Implications

- 1.9.1 Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs.
- 1.9.2 Section 114 of the Local Government Finance Act 1988 requires a councils' chief finance officer to issue a s114 Notice reporting to all elected members an actual or impending seriously unbalanced budget.

1.10 Financial and Value for Money Considerations

- 1.10.1 None through this report.

1.11 Risk Assessment

- 1.11.1 The Scrutiny Committee has a unique role to play in the Council's operations. Failure to fulfil that role could lead to a lack of challenge and transparency which could have future repercussions.

1.12 Equality Impact Assessment

- 1.12.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.13 Policy Considerations

- 1.13.1 Budgetary and policy framework is relevant to all areas of the Council's business.

1.14 Recommendations

- 1.14.1 Members of the Committee are asked to:

- 1) Review the Northamptonshire Interventions Report and consider whether there are any issues or principles which need to be investigated further at TMBC;
- 2) Consider what role the Committee can play in supporting the 'financial agenda' and if appropriate design programmes of work accordingly; and
- 3) Consider whether Members of the Committee would wish to engage in training programmes in order to assist them in their roles.

Background papers:

contact: Sharon Shelton

Nil

Julie Beilby
Chief Executive

Adrian Stanfield
Director of Central Services

Sharon Shelton
Director of Finance & Transformation

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Northamptonshire Commissioners

One Angel Square, Angel Street, Northampton, NN1 1ED

Lessons Learned Report from the Intervention at Northamptonshire County Council

We were appointed by the Secretary of State in May 2018 following the identification of critical failures within Northamptonshire County Council highlighted in a Best Value Inspection led by Max Caller CBE.

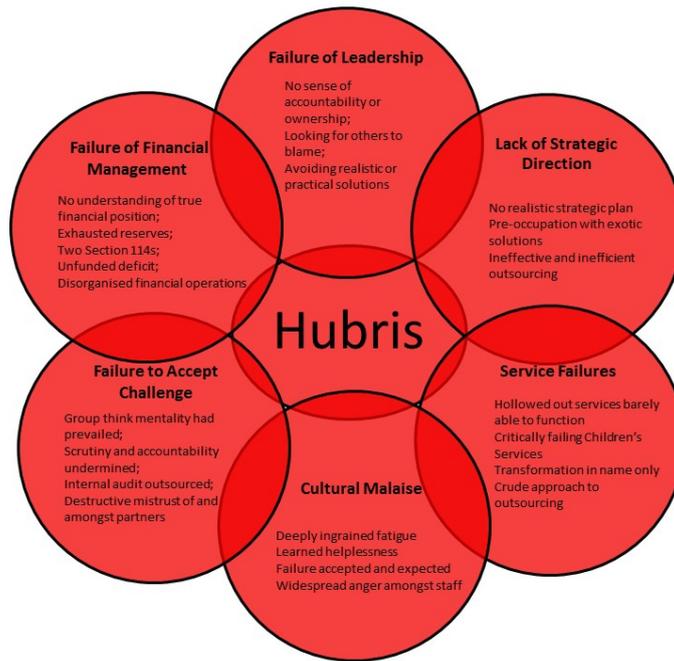
This is our report on the lessons learned during the Intervention. It supersedes our first and second annual interim reports which we developed as aide memoires to ensure that we captured the essence of the Intervention as it progressed.

Introduction

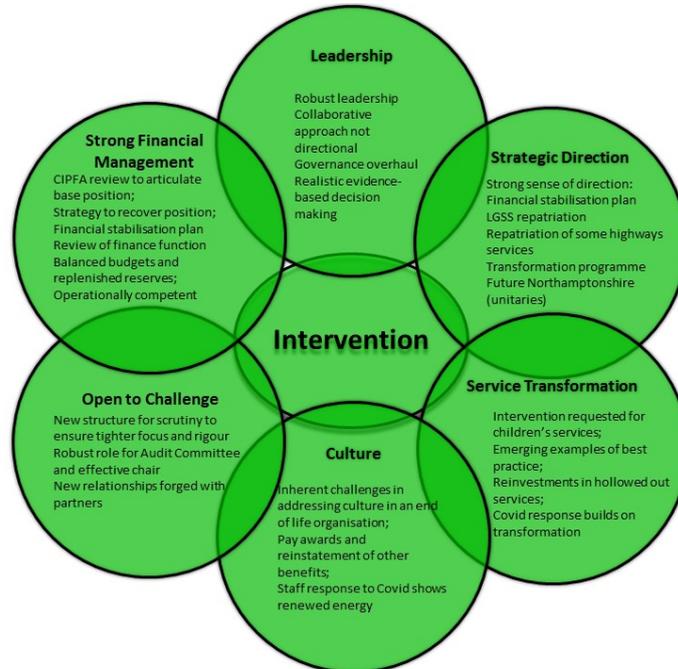
When we arrived, the Council had exhausted its reserves, had an unfunded deficit and had issued a section 114 (s114) notice – effectively declaring itself bankrupt. It was an organisation that had been hollowed out, with many of its in-house services and its out-sourced services neither efficient nor effective. The former leadership had developed a transformation agenda that existed in name only and, if the Council at that time could be identified with one word, that word would be hubris.

Almost three years later and in contrast we are pleased to state that when the Council ceases to exist at the end of March it will do so as a substantially restored organisation. It can end its existence with its head held high as its final three years can be defined by improvement worthy of note across its governance, financial management and services organisation and delivery.

We identified in the first year of the Intervention that there were six fault lines which were central to the Council's failure, and would need to be repaired in order to reverse that failure. These were:



At the centre of these faults was a state of hubris, characterised here as dangerous over-confidence. Addressing them has required a great deal of effort by the staff, and the senior leadership at officer and political level. However, the Council at the end of the Intervention is thankfully different from the Council we found on our arrival.



This paper will outline the nature of each fault-line, what measures were put in place to address them and what lessons can be learned as a result.

Leadership

There had been a complete failure of political and senior managerial leadership at the Council in the years preceding the Intervention. Rather than face up to its challenges, the leadership failed to tackle emerging issues, looked to lay blame elsewhere and chose instead to pursue fanciful solutions and remedies which were unlikely to succeed. It did not consider realistic or practical 'bottom-up' solutions.

From the outset of the intervention it was clear that Max Caller's judgement was an accurate reflection of the lack of leadership and despite there being '*many good, hard working dedicated staff*' the problems at the Council were a direct consequence of management failure. The wider failings of the Council flowed from this fault-line.

The first action we took was to tackle this fundamental flaw. We sought, and were successful in appointing an experienced and determined chief executive. She had a strong track record with the right approach and leadership style to tackle head-on the challenges the organisation faced in what was the most challenging role in local government. Alongside the chief executive we also strengthened the senior leadership team. Over the course of the intervention there was also significant strengthening of the wider management team.

It was this new team, alongside a new political leadership committed to open and transparent decision-making, that delivered balanced budgets without the emergency use of reserves each year over the full lifespan of the Intervention; a feat not achieved previously for the best part of a decade.

We agreed with the political leadership that we would support their aspiration to 'do all the right things' to restore the Council. We would work with them from the earliest point in the development of policies and priorities for action, in financial decision-making and in the development of relationships with partners. Consistently adhering to this, coupled with tightening of the Council's processes meant we didn't need to use the formal powers of direction given to us. We made clear that if at any time there was an attempt to avoid difficult choices or make weak or poor decisions (as in the manner of their predecessors) we would override these. This arrangement held throughout the intervention, with local decision makers strengthening their confidence and the quality of their decision-making as the relationship and their experience matured.

The impending 'end-of-life' status of the Council meant that a review of the council's formal deliberation and decision making processes, entailing a re-write of the Council's Constitution, Standing Orders and Financial Regulations would have been an exercise with very limited value. It is something that we would have done had the Council been set to continue in existence since there were structural flaws in these arrangements. Under the circumstances we took a decision to address just those things that simply needed to be fixed, and quickly, in order to move pragmatically through the short life span of the Council

Key to sustaining stability, improvement, and performance was the maintenance of organisational grip at all times and a constant guard against complacency. Failure

had become so ingrained and embedded that intense focus and visible leadership was required throughout the Intervention. Improvements remained fragile and constant vigilance at a macro and micro level were required to ensure momentum was maintained. The strengthened leadership worked relentlessly to restore a demoralised wider team who had come to lack confidence in their own abilities and the freedom to use those abilities.

Strategic direction

The Council suffered from a lack of strategic direction. At the outset it was clear that there wasn't a realistic Council plan, county plan, workforce plan, IT plan, or a transformation plan and the approach to risk-management could best be described as under-developed.

Instead there was a preoccupation with far-fetched experiments and ill-thought through exotic solutions. One such 'solution' had been the outsourcing of large parts of the organisation (bizarrely including core strategic services) into a shared service arrangement called LGSS. This was done badly, and it left the organisation without a corporate centre or a sense of corporate direction. It was framed by a worrying lack of governance and unaddressed performance issues with, in effect, no connection between the outsourced corporate functions and the services which they underpinned. Many of these services themselves had been floated off into arms-length organisations. The Council, as a result, was dangerously under-governed.

We worked alongside the new leadership team to set the strategic direction, agree a clear programme of work and define the benchmarks that would indicate success, then we measured performance against delivery. Not rocket science, just the basics, done well.

Despite local fears that this would result in the decimation of services, the financial stabilisation plan focussed on concepts of efficiency and improvement to guarantee the Council lived within its means, weaning it off of its habit of overspending.

Core strategic services such HR, Organisational Development, IT, Democratic Services and Finance were repatriated. In conjunction with Cambridgeshire and Milton Keynes Councils a lead authority model was developed for the transactional functions that remained shared. This has given the Council an ability to forge a corporate direction as well as properly commission and performance manage its frontline services – and gain the benefits of a proper 'shared service'.

The failure of this shared services experiment provides a valuable lesson in outsourcing – the importance of considering what is suited to outsourcing and what isn't.

The Council also began a substantial transformation programme led by proven experts. Once the Secretary of State had taken the decision to replace all eight councils in the county with two unitary authorities, the transformation programme incorporated the wider aspects of the Future Northamptonshire programme led by the Council's chief executive.

Financial management

Emanating from the first two fault lines was the failure of financial management – the Council had outsourced its strategic financial expertise and support services meaning it was left without in-house capacity. Many elementary tenets of sound financial management were either beyond the Council's control, or simply not in place.

In the first week of the Intervention we had little sense that the Council fully understood its financial position. It was clear all of its reserves had been exhausted but it was not clear what the revenue position was. Having issued its first s114 notice in February 2018 three months before the Intervention, there was an absence of urgency and a plan to address the situation did not exist when we arrived. It was essential therefore that we uncovered the full extent of the problem before we could plot the recovery.

We instructed CIPFA to conduct an independent review to provide a reliable, impartial and forensic assessment. This revealed an in-year gap of £30m – as opposed to the £8m forecast by the Council and an unfunded deficit for the previous year of £34m, increasing to £41m once misuse of grants and ring-fenced reserves were taken into account. A total gap of over £64m.

The review gave us confidence that we then understood the magnitude and the scale of the recovery plan required. As a result, we supported the issuing of a second s114 notice to concentrate minds and provide transparency about the financial position.

The practical steps taken to balancing the books weren't complex but the application of basic housekeeping measures and good financial management that forms business as usual for most authorities. These included:

- Liquidation of arms-length services and return of assets to NCC
- Better management of demand and contract monitoring in Adult Social Care
- Greater grip on spending in Children's Services, including reviewing and realigning home to school transport
- Renegotiation of highways contracts
- Capitalisation of equipment
- Agency staff reductions and conversion to permanent
- International social worker recruitment
- More effective treasury management and other measures

We also made it clear that we expected directors to be accountable for their budgets.

Simultaneously we constructed a credible medium-term financial plan and successfully applied for a capital dispensation to address the Council's un-funded deficit.

It was this work which set the foundation of enabling the Council to subsequently deliver successive balanced budgets throughout the Intervention.

In addition to this we commissioned a thorough and independent review of the Council's finance function and systems which, we were grateful, was funded by the LGA; improvements had been made during the first year which enabled early identification of issues and consequently the ability to deal with them quickly, but evidence indicated there was a bigger piece of work to do, including developing a comprehensive training programme for budget managers. All of the recommendations from this review have been adopted.

We appointed two first-rate Finance Directors during the Intervention, one taking over from the other upon retirement. We also appointed a former Finance Director as independent advisor to the Finance Commissioner, doubling up on our challenge capacity. Working closely ensured an unyielding focus on improvement and reinforced financial discipline which delivered a balanced budget in every year of the Intervention.

This achievement should not be underestimated given the position at the start of the Intervention, as set out above. As a result, the two new unitary Councils will inherit a far stronger financial base than looked remotely possible three years ago.

Our concerns about delays with external audit reports have been well documented and we were disappointed when the Council's auditors decided not to publish a Public Interest Report.

We felt it entirely reasonable that taxpayers should be informed as to how the Council had got itself into this situation and the sector as a whole advised as to how such a failure could be avoided in the future.

Our frustrations with external audit have continued throughout the intervention. Delays with process mean the annual accounts for 2018/19 and 2019/20 may have to be signed off following the close down of the Council as well as the completion of the annual accounts for 2020/21. This is far from ideal.

Service failures

The Council had significant scars from years of mismanagement, the most publicly apparent of these being a series of service failures. By pursuing specious service delivery models some services had received significant investment without any credible improvement plan, others were starved of resources and in some cases almost ceased to exist.

The most pressing and obvious example of failure was within Children's Services. During our first year we raised significant concerns about this service and asked for support from the Department for Education in appointing Commissioners to intervene.

The subsequent Intervention, despite some changes in approach along the way, has led to improvement, for example in the sustained reduction in unallocated cases, a reduced reliance on agency workers, improved financial discipline and the

successful establishment of a Children's Trust to take over the running of the service on behalf of the Council.

It is essential to understand from the Northamptonshire example that the failure of Children's Services was in no way linked to a lack of funding. In fact, it was quite the reverse; the service had received significant investment every year since its assessment as inadequate by Ofsted in 2013. This investment was often at the expense of other services which had their funding diverted to support Children's Services without an effective plan in place to use this funding wisely. This led to an ever worsening, inefficient position within Children's Services while also leaving other services unable to properly fulfil core functions.

Of particular cause for concern were services such as Trading Standards, Heritage and Emergency Planning. Through the reintroduction of financial rigour across the Council these services and others have received reinvestment in the Council's final budget and will therefore be moving into the new unitary structures on a more capable footing.

There have also been some examples of best practice; one service that stands out is Adult Services. Of particular note has been the exceptionally difficult work to renegotiate an extremely poor value PFI contract that has been in place since 2004. The contract was for the provision of respite care services at specialist care centres. Millions of pounds of public money have been wasted because of the poor construction of the contract and the Council's inability to hold the contractor firmly enough to account. This renegotiation was protracted and involved the Council working closely with both the Department for Health and Social Care and HM Treasury to deliver better quality and value.

Furthermore, the service's revised operating model combined with a new reablement programme has enabled the re-routing of people from long-term hospital placements to more appropriate care, either in a residential setting or in their own homes. This service was recognised in the annual Municipal Journal awards with the Director of Adult Social Care receiving the 'DASS of the year' accolade. An unintended, but fortunate, consequence of the new model has been its particular helpfulness in assisting the county and partners manage the approach to the Covid emergency.

Challenge

A 'group-think' mentality had prevailed at the Council for many years, with senior officers and politicians inclined to pursue misguided courses of action while failing to accept the reality of the organisation's predicament. Dissenting voices were ignored, partners were brushed aside if they didn't adhere to the Council's view and offers of help from within the sector were rebuffed until it was too late. All the Council's troubles were placed at the door of the Government for failing to provide enough money – even though a number of neighbouring counties were continuing to do well with less.

This stance marginalised the Council's scrutiny function which should have provided effective checks and balances. Added to this, the Council's internal audit function had been outsourced.

The 'we know best' mentality was also reflected in the Council's dismal track record in dealing with customer complaints, with the Local Government Ombudsman directly approaching Max Caller to raise his concerns.

A critical part of the intervention has been the establishment of meaningful challenge, scrutiny and transparency to the business of the Council. We asked the Centre for Governance and Scrutiny to review how scrutiny functioned and propose an effective structure for the Council which we then adopted in full. This included the scrutiny committee being chaired by an opposition Councillor and focusing exclusively on financial matters, as this was the most significant burden the Council was addressing.

We have also seen some much needed improvement in the handling of complaints; although performance remains patchy in some areas.

We found it valuable throughout the Intervention to engage directly with the public in a series of surgeries across the county. Here we tested our approach and enabled residents to raise concerns or grievances and give their views on the Council's progress.

Culture

When we arrived in Northamptonshire we found a deeply ingrained weariness and a learned helplessness throughout the organisation. A cultural malaise had enveloped the Council where failure was expected and aspiration for improvement was weak.

Given that the Intervention was put in place to see out an end-of-life organisation there have naturally been inherent difficulties in addressing some aspects of the organisation's culture. We were clear that some of the approaches that we would have adopted for an organisation with a future made no sense for an organisation that was coming to an end. A Workforce Strategy, for example, which would address a new organisational structure, the recruitment and retention of staff within that structure, and a progressive pay and reward policy for those staff would have been pointless work in many, while not all, respects. The successor Councils would be bound to do these things anyway and doing them twice in succession – and differently – would have been an unreasonable confusion for the workforce. Nonetheless, progress has been made without such an all-enveloping approach. The introduction of proper management practices has benefited staff and the new-found financial discipline has enabled an across the board pay increase for the first time since 2016. The lack of pay increase in the intervening years was because of the decision to opt out of the local government pay structure. This, together with the removal of mandatory unpaid leave and the reinstatement of benefits that had been curtailed, such as appropriate sick pay, has been positively welcomed by staff and unions.

The response of the Council's staff to the Covid emergency demonstrates a clear shift in the culture of the organisation; a committed, capable workforce with significantly less sickness than recent years and a willingness to be redeployed on responding to the pandemic has been demonstrated.

Working with partners, most noticeably districts, boroughs and health sector colleagues, has created a more integrated approach to social care that is working well and should continue to deliver benefits for residents once the sector returns to more business as usual operations. This collaborative partnership working would have been unthinkable three years ago, such was the breakdown in local relationships. It is impossible to ignore the connection that exists between 'doing the boring well' on a day-to-day basis and delivering an effective operational response in the testing circumstances of an emergency. One cannot exist without the other and together they are indicators of good corporate health in a complex organisation.

Summary

The Intervention in Northamptonshire has been a success. The Council is now financially secure, its services are competent and it is in a good place to hand over to the new unitary authorities. In particular, we are pleased to be ending the Intervention without having resorted to using our powers under Directions on any single occasion.

The claims of Northamptonshire being unfairly treated were fictional. The reality is that it had ceased to manage well the business of being a local authority, had avoided making difficult decisions at every turn and had run out of excuses.

We had conviction from the beginning that the Council must deal with the problems it had created for itself with its own resources. We are pleased to say it has. Its historic deficit was eliminated through the use of its own capital and its reserves have been replenished via the same route and through additional Council Tax contributions. Its operations however have been entirely met within the bounds of its normal income – indeed it has contributed over £40m surplus to its reserves during the same time, so effective has its efficiency programme been. The very fact that a sound performance has been achieved without the need to cut services but rather by 'doing the boring well', reducing inefficiencies and pursuing real transformation speaks volumes.

There are Councils within the sector who are showing signs of distress and the fault lines we have outlined here are likely to be present to some degree within those Councils. Appended to this document are some recommendations that we hope may help.

Lessons Learned from Northamptonshire County Council Intervention

Appendix: Recommendations

1. Recommendations to the sector

- 1.1** Choose your leadership team with rigorous care and for the right reasons. Do not compromise simply so that posts can be filled.
- 1.2** Recognise that for Members, leading a recovery may be particularly difficult, and many may be new to senior positions. Decisions will never be more tested than at times like this, and must be based on evidence with well-founded, unambiguous recommendations.
- 1.3** That 'challenge' in the widest sense, whether internal or external, should be regarded as an opportunity to consider and improve, not a threat to leadership. Do not close your ears to messages that you do not want to hear.
- 1.4** Plan and plan properly - A clear, transparent and overarching sense of direction is crucial in order to drive forward Council activity and set it up for success. It is central to sensible and rational decision making, other plans flow from it. It should be commensurate with your purpose as a public body. Monitor and measure against delivery.
- 1.5** Ensure an unrelenting focus on financial management & discipline and a culture of continual improvement. They are the foundations of every good organisation. Deliver on budget and ensure savings agreed at the start of the financial year are delivered.
- 1.6** Dedicate proportionate resources to monitoring delivery of programmes to transform/modernise.
- 1.7** Take action, without delay, to address shortfalls in savings targets and do not work under a misguided assumption that 'it will all be all right in the end'. NCC, during the 7 years prior to the intervention, achieved annual savings significantly below those identified as necessary during its budget setting process (never more than 49%). This suggests that budgeted savings were not systematically or robustly challenged during the budget setting process and no account was taken of historical delivery performance. Local authorities should have robust processes in place to challenge the veracity of savings proposals – a lot depends on them being delivered.
- 1.8** Consider carefully what is suitable for out-sourcing and what isn't suitable – don't be led by trend or fashion.
- 1.9** Ensure robust and equitable contracts are in place with partners for all shared service arrangements in order to avoid subsidy or disadvantage.
- 1.10** If financial circumstances deteriorate, the influence of the scrutiny committee should be boosted in respect of financial overview. For example, provide impartial and independent training and advice to Councillors through the Centre for Governance and Scrutiny, to enable the committee to scrutinise effectively key decisions on services, income and expenditure and learn how to question without aggression.
- 1.11** Where services are under-performing be clear about why before corrective action is taken.

1.12 Robust scrutiny arrangements reduces the potential for ill thought-through decisions and are an indication of strength and confidence in decision making. Conversely, weak and disempowered scrutiny easily admits the possibility of untested and over-optimistic decisions, and, ultimately, failure.

1.13 Energise your workforce by supporting what works and changing what doesn't. Nothing demoralises staff more than bad management.

2. Recommendations to future Commissioners

2.1 As Commissioners ensure you are assigned as chief of staff a top quality civil servant who understands local government and how local authorities work. Advice and guidance on all aspects of the intervention, as well as navigating central government has helped a lot with our strategy, tactically and with relationship development, as well as solving a multitude of practical issues.

2.2 As a commissioner team ensure you meet as a group before the first day at the Council to agree operating practices/approach. We took a very early decision to work through the authority rather than use the powers provided by directions because we felt ownership by the authority was key to success. We presented this approach as our 'modus operandi' to the Council on day 1 and invited them to buy into it allowing it to be known that Members would not be absolved of decision making.

2.3 The authority should provide PA and other administrative support and logistics (IT, offices, hotel accommodation etc.) and ensure they are in place promptly. Commissioners should take care to ensure the efficacy of these from the outset. They are easier to remedy at an early stage if that proves necessary.

2.4 Very early on in the Intervention, the Council's HR should ensure the appropriate method of payment of Commissioners' fees is applied (HMRC IR35 test etc.). The key to this is the designation of the end client – HMRC regards the end client as the local authority, not the Secretary of State. However the Civil Service has a duty of responsibility to ensure the correct method is applied (<https://www.parliament.uk/business/publications/written-questions-answersstatements/written-statement/Commons/2019-07-22/HCWS1774>). As office holders PAYE is likely to be the method of taxation.

2.5 Clearly the circumstances of interventions and the problems to be addressed differ. In our case it has been important that the lead commissioner has had the following skills and attributes:

- an experienced chief executive with a realistic view of Best Value and the various means by which it can be secured;
- experience of working in difficult political environments and a thorough respect for democratic accountability;
- an ability to communicate effectively and with presence, collaborate with and command the respect of all interested parties including the Secretary of State, members of the public, Members, partner organisations, local businesses, staff, service users and media;
- an ability to identify reasons for service failure and instigate the measures necessary to stabilise service delivery and implement improvement;
- proven ability to provide effective leadership in challenging circumstances;
- a decision-maker who can quickly adapt when proposed solutions don't work first time.

- 2.6** The skills and attributes of other Commissioners are the same as for the lead Commissioner except that relevant subject matter expertise replaces the need for experience as a chief executive.
- 2.7** In order to ensure transparency Commissioners should publish on the local authority's website:
- the Directions that set out their objectives together with periodic reports on progress to the Secretary of State;
 - their contact details and the arrangements made to be accessible to Members, members of the public, partners and other interested parties;
 - their fees and expenses.
- 2.8** Commissioners should make it clear to stakeholders how decisions will be made. In Northamptonshire, we worked on the basis that while we do have the powers through our Directions we would not utilise them if the Council itself made sound decisions. There was little recent history of doing so, making this self-evident requirement a challenging one for the authority. We emphasised that this approach would require the Council to make decisions that would be particularly difficult given the circumstances. Although it would do so with the benefit of our early input, advice and guidance in setting the parameters for those decisions, there could be no question of dodging difficult issues and leaving them for us to resolve. This act of faith would be of immense benefit in restoring confidence in local democracy, but would not survive its first failure. Despite the challenges, this approach endured and the Council is the better for it.
- 2.9** Commissioners should act quickly to create stability at the upper levels of leadership – we took full advantage of our powers to make appointments to statutory roles to achieve this within the first six weeks. Good fortune played a part in this as we managed to recruit a chief executive of the highest calibre when the odds were against us.
- 2.10** Commissioners should develop a continuous engagement plan early. This should include staff, partners (including other local councils - districts and boroughs in Northamptonshire) and residents. Commissioners should listen to what they are saying – in Northamptonshire we have heard the same messages of anger and frustration from many different sources.
- 2.11** Commissioners should develop key messages based on facts – it will likely vary from the messages previously used by the organisation. In Northamptonshire some Councillors (past and present) as well as officers refused to accept the facts of the situation, so strong fact-based messages are critical to counter myths.
- 2.12** Commissioners should confirm for themselves whether effective financial management exists. This may seem an obvious point to make but during our first year all of the following became apparent (some were clearer than others when we arrived). There was:
- an under-estimation of revenue budgets to a material level leading to overspending;
 - an imbalance between income and expenditure;
 - the use of one-off resources to fund ongoing revenue expenditure with no plans to replace them;
 - an adverse opinion from the external auditor on the authority's ability to deliver best value;
 - a lack of financial resilience when measured against CIPFA's financial resilience model;
 - a poor outcome from benchmarking financial services against CIPFA's financial management model;
 - a failure to close the accounts and publish the Statement of Accounts on time;

- a failure to respond in a timely fashion to matters raised by the auditor in the ISA260 report;
- a failure to disclose to the external auditor and / or to the Audit Committee weaknesses in the Council's financial systems, management or processes;
- a poor outcome from independent inspections including an LGA Peer Review, and an Ofsted inspection that although rated as requires improvement has since proved to be a misplaced judgement;
- a persistent failure to deliver savings targets in the short, medium and long term, and the lack of an appropriately skilled transformation team to support and monitor the progress of projects designed to deliver savings;
- a high level of reliance on the use of reserves to fund ongoing revenue expenditure;
- an inappropriate use of government grant funding;
- an over-reliance on short-term funding sources such as the flexible use of capital receipts;
- use of reserves for purposes for which they were not originally intended;
- a weak system for financial monitoring and reporting and for informing members of cabinet, scrutiny and Council which is less than timely, complete, clear and relevant to decision making;
- the likely issuing by the external auditor of a Report in the Public Interest; Later a decision was taken by auditors not to progress.
- the issuing by the external auditor of an advisory notice under the Local Audit and Accountability Act 2014;
- weak financial stewardship leading to routine financial processes (e.g. clearing suspense and control accounts and reconciliations) not operating effectively;
- opaque, confused and jargon riddled reporting, written for the benefit of finance 'experts' rather than for the benefit of understanding by Councillors, residents and Council Tax payers;
- weak governance associated with shared service arrangements and a lack of understanding of roles, remit and responsibilities.

2.13 It is fundamental that Commissioners work within the organisation as the representatives of the Secretary of State and are not perceived as being officers accountable to local politicians or substitute politicians. It is also important that, in being available to advise and assist officers of the Council, Commissioners do not do their jobs for them.

2.14 Challenge the evidence or the accepted wisdom that is provided. There will never be a greater opportunity to drive change for the better.

3. Recommendations to CIPFA

3.1 CIPFA should issue a guidance note to s151 officers and auditors setting out the circumstances which may give rise to the need for a s114 Notice to be issued and the steps that should be taken to respond.

4. Recommendations to Government

4.1 That MHCLG continues to maintain a systematic way of gathering and recording concerns about the performance of individual local authorities. From our perspective as Commissioners this could include:

- statutory recommendations including section 24 notices, advisory notices and public interest reports by the external auditor;

- an adverse opinion for Best Value made by the external auditor;
- judgements on critical services as inspected by Ofsted, CQC, or any other inspectorate as well as the opinion of the Local Government Ombudsman.
- Such concerns could be understood as 'red flags' and may form part of the evidence to support an earlier than normal intervention.
- Inability to manage finances adequately should be regarded primarily as a leadership concern as well a financial issue.

4.2 MHCLG should review the CIPFA resilience index to identify at risk authorities.

4.3 MHCLG should give powers to the external auditor to require local authorities to act upon their recommendations and there should be sanctions introduced if the authority fails to do so within a given timescale.

4.4 A stepped approach to providing support to local authorities is developed as a continuum e.g. an independent review (not commissioned by the authority) through to statutory intervention.

4.5 Greater effort could be made to ensure local authority reporting is written for the benefit of Members and residents rather than officers.

6.	Overview and Scrutiny Committee
Size and Membership: (Quorum: 4 Members of the Committee)	
To consist of 18 members and shall be politically balanced, none of whom may be a member of the Executive.	
The Overview and Scrutiny Committee will have the power to co-opt any person(s) it thinks appropriate (except for members of the Executive and officers of the Council) onto the committee, on whatever basis it thinks appropriate. Co-opted members may speak in debates but not vote.	
The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.	
Terms of Reference:	
The Overview and Scrutiny Committee shall discharge the following general functions	
1.	review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive;
2.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Executive;
3.	review or scrutinise decisions (other than individual regulatory decisions) made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive;
4.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Executive;
5.	make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area; and
6.	exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive
The power of the Overview and Scrutiny Committee under 1 above to review or scrutinise a decision made but not implemented includes power:	
7.	to recommend that the decision be reconsidered by the person who made it; or

8.	to arrange for its function under subsection 1, so far as it relates to the decision, to be exercised by the authority.
Specific Functions:	
Policy Development and Review	
The Overview & Scrutiny Committee may	
9.	assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
10.	conduct research, community and other consultation in the analysis of policy issues and possible options;
11.	consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
12.	question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;
13.	liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
Scrutiny	
The Overview & Scrutiny Committee may	
14.	review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
15.	review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
16.	question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
17.	make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
18.	review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the committee and local people about their activities and performance;
19.	question and gather evidence from any person (with their consent).

Finance	
20.	The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it
Annual Report	
21.	The Overview and Scrutiny Committee must report annually to the full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.
Officers	
22.	The Overview & Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support its work.
The Overview and Scrutiny Committee or a sub-committee of such a committee:	
(a)	may require members of the Executive, and officers of the authority, to attend before it to answer questions;
(b)	may require any other member of the Borough Council to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England); and
(c)	may invite other persons to attend meetings of the committee.
It is the duty of any member or officer mentioned in paragraphs (a) or (b) above to comply with any requirement mentioned in that paragraph. However, a person is not obliged to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.	
The Borough Council has designated the Chief Corporate Policy Officer as the Scrutiny Officer for the purposes of the Local Government Act 2000.	

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Agenda Item 6

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 7

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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