

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet

DATE: 15 November 2021

SUBJECT: DLUHC Reviews and Intervention

CHIEF OFFICER: Steven Mair, Director of Finance (s151 Officer)

CONTACT OFFICER: Steven Mair

WARD(S): All

PORTFOLIO: Cllr Swindlehurst: Leader of the Council

KEY DECISION: No

EXEMPT: No

DECISION SUBJECT TO CALL IN: No

APPENDICES: No

1 Summary and Recommendations

1.1 This report sets out a summary of the recommendations in the DHULC Governance and CIPFA reviews and the appointment of Commissioners to Slough for three years.

Recommendations:

1.2 Cabinet is requested to note the report and make preparations to support the arrival of commissioners who are expected to be appointed for a period of three years by the Secretary of State for Department for Levelling Up, Housing & Communities (DHULC) in the coming weeks.

Reason:

1.3 DHULC published a [Governance](#) and a [CIPFA](#) review on Slough on 25 October 2021. The Minister of State for Equalities and Levelling Up Communities made an accompanying [statement](#) that included the proposal to transfer to Commissioners of all functions associated with:

- The governance and scrutiny of strategic decision making by the Council.
- The strategic financial management of the Council.
- The oversight of collection of revenues and the distribution of benefits by the Council.
- All non-executive functions relating to the appointment and dismissal of statutory officers, and the designation of those persons as statutory officers at the Council to the Commissioners.

1.4 These powers are for use should the Council not satisfy the Commissioners in their improvement processes. The Commissioners will be in place for three years.

2 Report

- 2.1. The Council welcomes the additional support from Commissioners and looks forward to working with them to continue to make large strides in righting the wrongs of the past and making the right decisions for our residents and town to assist the council in putting itself back on a sustainable financial footing and improving the governance of the council.
- 2.2. The Council completely accepts both reports' findings, the recommendations, and the comments. Since April 2021 the Council has started to instigate positive action in a number of areas to ensure that the issues identified are addressed. We are satisfied the work since April has been very rigorous and comprehensive.
- 2.3. Officer and Members responded positively to the reviews that highlighted the areas they had concerns about, a lot of which were included in the Section 114 Notice. Progress against the then finance action plan, that covers the recommendations made, were reported to Cabinet in September and an update on the now Recovery and Renewal Action Plan is on this Cabinet Agenda.
- 2.4. Officers have also prepared an action plan in response to the Governance Review and the CIPFA review. These are now combined with the above action plan and report as a holistic recovery and renewal plan update.
- 2.5. In respect of the recommendation to move to all out elections every four years, initial consultation with residents is planned to start the latter part of this month.
- 2.6. The Leader of the Council and the Director of Finance (s151 Officer) met the Minister on Friday 22 October 2021 when she informed them of DLUHC's decision to appoint Commissioners. The meeting was very positive as Slough are committed to work closely with Government to ensure that the Council is put on a sustainable financial footing in the future.
- 2.7. All Members were briefed on the contents of the reviews and the Minister's statement by the Leader and the Director of Finance on the day they were published.
- 2.8. The same briefing was made to all staff on the following day, 26 October and subsequent briefings have been carried out for staff in Slough Children First.
- 2.9. It is not known how many Commissioners will be appointed, the scope of Northamptonshire's intervention was very similar to Slough's and two Commissioners were appointed. Liverpool, where Government intervened, although with different issues, in June 2021 has four. It is important to note that the Council is already under statutory intervention in relation to its children's services and Trevor Doughty is the appointed commissioner for this. It is expected that Mr Doughty will work closely with any newly appointed commissioners.
- 2.10. Commissioners will be supported by a senior Civil Servant and can appoint staff or consultants to support them in their work while ensuring they achieve VFM.
- 2.11. Costs of the Commissioners and any support will be funded by the Council.

Options considered

- 2.12. No other options are available, the appointment of Commissioners is a decision by the Secretary of State. The Council is committed to working with the Commissioners, however if the Council does not take certain decisions, the Commissioners will have powers to direct the Council on specific matters. The functions that are proposed to be transferred to the Commissioners include:
- a. All functions associated with the governance and scrutiny of strategic decision making by the Authority;
 - b. The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority, to include:
 - i. providing advice and challenge to the Authority on the preparation and implementation of a detailed plan to close its short and long-term budget gap in response to the section 114 notice;
 - ii. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority, limiting future borrowing and capital spending;
 - iii. scrutiny of all in-year amendments to annual budgets;
 - iv. the power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty; and
 - v. providing advice and challenge to the Authority on the preparation of an outline asset disposal plan.
 - c. All functions associated with the oversight of collection of revenues (council tax and business rates) and the distribution of benefits (housing benefit and council tax support) by the Authority; and
 - d. All non-executive functions relating to the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers.

For this purpose – i. “statutory officer” means any of: the head of paid service designated under section 4(1) of the Local Government and Housing Act 1989; the chief financial officer designated as having responsibility for the administration of the Authority's financial affairs under section 151 of the Local Government Act 1972; the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989; and the scrutiny officer designated under section 9FB of the Local Government Act 2000 (and the expressions “statutory officer” and “statutory office” are to be construed accordingly); and ii. for the avoidance of doubt, the following are included: the functions of (a) designating a person as a statutory officer and removing a person from a statutory office; (b) the functions under section 112 of the Local Government Act 1972 of (a) appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those

functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and (b) dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.

Background

- 2.13. The previous Director of Finance & Resources (s151 officer) submitted an interim MTFS report for the period 2021/22 – 2023/24 to 14 December 2020 Cabinet. In this report he outlined that the Council would not be able to identify and implement enough measures to eliminate the budget gap in 2021/22. Thus it would need to apply to DLUHC for a one-off capitalisation directive.
- 2.14. The capitalisation directive was granted in March 2021, prior to the budget meeting. One of the conditions of the award was that two reviews would be undertaken in the Summer, a governance and a finance review.
- 2.15. Eight Councils requested support, all of them were subject to a review by CIPFA, three, Slough, the Wirral and Peterborough a Governance review as well.
- 2.16. As part of the Audit of the 2018/19 Accounts, Grant Thornton discovered a series of errors in the treatment of company surpluses, effectively reducing the Council's reserves to nil. They issued four statutory recommendations to Council on 20 May 2021.
- 2.17. The new s151 Officer was appointed by Council at the same meeting.
- 2.18. On 2 July the new s151 Officer issued a s114 notice the third s151 Officer to do so at a Council in recent history, following Northamptonshire in 2018 and Croydon in 2020.
- 2.19. The s114 notice and response was debated and approved at Council 22 July 2021. Grant Thornton issued two more statutory recommendations, now six in total at the same meeting.
- 2.20. Jim Taylor, ex-Chief Executive of Salford Council undertook the Governance review over two weeks in August 2021. CIPFA undertook their finance review at the same time.
- 2.21. Slough's reviews have been the first to be published on 25 October 2021 with the Wirral and Peterborough's, published in the first part of this month. Those two councils are to have Improvement boards, not Commissioners.

3. Implications of the Recommendation

3.1. Financial implications

- 3.1.1. It is assumed that DHULC will require the Council to pay the Commissioners reasonable expenses and such fees as the Secretary of State determines to be paid to them. It is estimated, based on the Liverpool Commissioners, that the lead Commissioner will be paid £800 per day and assistant Commissioners £700 per day for three days per week for three years. In addition, the costs of any support or consultancy support will need to be funded by the Council.

- 3.1.2. Assuming two Commissioners from December 2021 the estimated costs for 2021/22 will be approximately £72k + costs of any additional support which is estimated to be another £78k, £150k in total.
- 3.1.3. Estimated costs in 2022/23 would be £216k plus any additional support which could increase this to £400k in total.
- 3.1.4. The total costs of intervention to Slough over the three years could be £650k for Commissioners and another £350k for support, £1m in total.

3.2 Legal implications

- 3.2.1 Section 15 of the Local Government Act 1999 (“the 1999 Act”) permits the Secretary of State to intervene if a best value authority has failed to comply with its duties under Part 1 of the 1999 Act. The Secretary of State’s powers include the power to direct the authority to carry out a review of specified functions and direct the authority to take any action which he considers necessary or expedient to secure its compliance with the requirements of this Part. Such direction can include that a specified function shall be exercised by the Secretary of State or a nominated person for a specified period and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of that function.
- 3.2.2 The Council is a best value authority by virtue of s.1 of the 1999 Act. S.3 sets out the general duty, which is for an authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 3.2.3 The proposed directions to the Authority are set out in the updated recovery and renewal plan which is discussed elsewhere on this agenda and which will continue to be developed.

3.3 Risk management implications

- 3.3.1 The Council has been working to improve its risk management procedures and this will include ensuring that the corporate and directorate risk registers are reviewed regularly to ensure they capture the risks associated with key council projects. The Council will also be working on a dedicated risk register in connection with the projects that have arisen in response to the Council’s financial situation.

3.4 Environmental implications

- 3.4.1 None

3.5 Equality implications

- 3.5.1 The Council continues to have duties under the Equality Act 2010 and will ensure it properly assessed the equality implications of any proposals arising from the Governance review and CIPFA review.

4. **Background Papers**

None