

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Council

**DATE:** 22 July 2021

**CHIEF OFFICER:** Josie Wragg Chief Executive  
Steven Mair S151 Officer

**WARD(S):** All

### **PART I** **FOR DECISION**

#### **SECTION 114 REPORT AND CHIEF EXECUTIVE'S RESPONSE**

##### **1 Purpose of Report**

- 1.1 On 2 July 2021, the Council's Director of Finance & s151 Officer issued a report under s.114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces "a financial situation of an extremely serious nature". Councillors are asked to note the Chief Executive's response to the report and endorse a series of actions to put the Council in a stronger financial position in future.

##### **2 Recommendations:**

Council is requested to:

- 2.1 Endorse the findings in the Section 114 report;
- 2.2 Endorse the Chief Executive's response to the Section 114 Report, including, specifically:  
the proposals to control in-year spending;  
the proposals for the budget setting process for 2022/23, including the role of Overview and Scrutiny and plans for public consultation;
- 2.3 Note the Council's ongoing discussions with MHCLG in relation to securing a further capitalisation direction;
- 2.4 Note the Chief Executive's response and that if it is not delivered, and/or sufficient savings are not identified, the s.151 Officer may issue a further s.114 report.

**Reason:** Council is required to meet and formally consider the s.114 report and agree an action plan to address the issues raised in it.

##### **3 Background**

- 3.1 The Council agreed its revenue and capital budget for the 2021/22 financial year at its meeting on 8 March 2021. In this report Members were advised that

"7.9 Like many councils, Slough faces considerable financial challenges, particularly increasing in the numbers and cost of supporting vulnerable people and children in care and central government funding reducing. However, it has routinely been recognised that the Council's level of reserves are relatively low, in comparison to other Unitary Authorities, which means that it has less time and potentially fewer options than others to bring its budget into balance.

“7.10 Slough has made a substantial commitment to regeneration, the provision of affordable homes and the development of the local economy. To fund this important investment borrowing has accordingly increased which has an associated impact on the revenue budget.

“7.11 In the current year Council spending has come under considerable pressure due to Covid-19. This has meant the Council has also found it harder to deliver savings than it had expected, which has meant that some savings targets have not been achieved with a knock-on impact in future years. These additional pressures are reflected in the 2021/22 budget proposals.”

3.2 Following this meeting and in relation to the Council’s accounts, the Council’s external auditors issued seventeen recommendations and four s.24 recommendations, which were reported to Members at the Council meeting on 20 May 2021. Members were informed that:

“The enclosed report from Grant Thornton sets out the areas of concern highlighted from their work, the statutory recommendations issued and the Council’s responses to address the auditors’ recommendations. The statutory recommendations report highlights:

- insufficient capacity and skills within the finance department,
- inadequate preparation of financial statements,
- inadequate general and earmarked revenue reserves,
- inadequate financial governance and monitoring over its outside groups and companies

### **S114 Report**

- a. On 2<sup>nd</sup> July the Council’s Director of Finance & s151 Officer issued a report under s114 of the Local Government Finance Act 1988, which was sent to all Councillors. This advised them that the Council faces “a financial situation of an extremely serious nature”. The report is at appendix 1.
- b. The issue of a s.114 report is a serious step and there are only a small number of local authorities who have been subject to such a report.
- c. The report details the findings underpinning that conclusion and explains that ‘there are no ways out of this financial situation other than seeking additional support from MHCLG and a willingness on the part of the Council to take decisions that will be required to achieve a balanced outturn in 2021/22 and to set a lawful budget in 2022/23.”
- d. In accordance with the statutory requirements, the Council’s Chief Executive and Monitoring Officer have been consulted on the s.114 report and are both supportive of the actions of the s151 Officer. The external auditors have also been informed, as have MHCLG officials.

### **Chief Executive Response**

- e. In the same day the Chief Executive issued a public response stating that Councillors and Officers recognised the gravity of the situation and committing to all efforts needed to put the Council on a secure long term

financial footing. The response identified all the work areas either under way or planned to bring this about. The response is at appendix 2.

## 3.2 Legal implications

3.2.1 The need to issue a s.114 report is triggered in prescribed circumstances, including where the chief finance officer believes that the expenditure of the authority incurred (including expenditure it proposed to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

3.2.2 The process for the issuing of the report are set out in the 1988 Act and have been followed. s.115 of the 1988 Act requires full Council to consider the report within 21 days and decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.

3.2.3 s.115(6) states that pending consideration of the report by full Council, there is a prohibition period which runs from the date the report is made to the date of the full Council meeting. During this period, the Council must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority unless the chief finance officer of the authority authorises it in writing, specifying a prescribed reason. The chief finance officer may only give authority for the purposes of subsection (6) if he considers that the agreement concerned is likely to:

- (a) prevent the situation that led him to make the report from getting worse,
- (b) improve the situation, or
- (c) prevent the situation from recurring.

3.2.4 Failure to comply with the procedure set out in paragraph 3.2.3 above will result in the Council being deemed not to have had the power to enter into the agreement and as such the Council's actions will be deemed unlawful.

3.2.5 The formal prohibition period set out in paragraph 3.2.3 will cease on 22 July 2021, however full Council is being asked to agree further controls as set out in the attached action plan, which will restrict the Council's ability to incur further expenditure.

3.2.6 The Council's legal duties around budget setting are set out in s.31A of the Local Government Finance Act 1992, which requires the Council to set its council tax, taking account of the need to balance its expenditure with its revenue.

3.2.7 There are powers set out in Part I of the Local Government Act 1999 regarding Secretary of State intervention in a local authority of which the Council should likewise be mindful.

3.2.8 The Council's external auditor also has power available under the Local Audit and Accountability Act 2004 to issue an advisory note, make statutory recommendations and issue a public interest report if it has concerns about the effect of the Council's decision-making in relation to the Council's accounts.

3.2.9 Case law has determined that the issue of a s.114 report does not alleviate the Council from following a fair and lawful process in relation to decision-making on service reductions or realignment. Whilst it is clear that a lawful budget must be set and this can provide an evidence base for a local authority to take a revised approach to service provision motivated by its financial position, this does not relieve the Council of the need to act lawfully. This includes the need to conduct needs assessments, consider whether

proposals should be subject to consultation and if so, conscientiously consider the results of such consultation, assess and have due regard to equality implications and to take all other relevant information into account to inform its decision.

3.2.10 The proposed action plan sets out clear roles for Cabinet and Overview and Scrutiny Committee in terms of future decision-making regarding service proposals to inform the future budget setting process for 2022/23.

### 3.5 Equality implications

3.5.1 As set out in the legal implications section, the Council must demonstrate that it has complied with its wider duties when making decisions to reduce or change services. It will be expected that equality implications will be assessed and reported to decision-making as part of the budget setting process.

### 3.8 Property implications

3.8.1 The Action Plan highlights the need to dispose of surplus assets to fund a capitalisation direction, transformation projects and to build up the Council's reserves for future years. A disposal strategy was considered by Cabinet in June 2021, which delegated authority to officers for disposals up to £1 million and officers are already in the process of reviewing the list of assets to identify suitable sites for disposal.

## 4. Appendices

Appendix 1 – s.114 report by Steven Mair dated 2 July 2021

Appendix 2 – Chief Executive's response to s.114 report, including action plan for addressing the issues raised

## 5. Background Papers

None