

**Medway Council**  
**Virtual Meeting of Business Support Overview and  
Scrutiny Committee**

**Thursday, 2 July 2020**

**6.30pm to 10.10pm**

**Record of the meeting**

**Subject to approval as an accurate record at the next meeting of this committee**

**Present:** Councillors: Buckwell (Chairman), Clarke, Hackwell, Johnson, Maple, Opara, Andy Stamp and Tejan (Vice-Chairman)

**In Attendance:** Mark Breathwick, Head of Housing  
Councillor Simon Curry  
Scott Elliott, Head of Health and Wellbeing Services  
Perry Holmes, Chief Legal Officer/Monitoring Officer  
Andrew Mann, Partnership Director, Medway Norse  
Su Ormes, Head of Adult Partnership Commissioning and the Better Care Fund  
Michael Turner, Democratic Services Officer  
Phil Watts, Chief Finance Officer

**69 Election of Chairman**

Councillor Buckwell was elected Chairman of the Committee for the Municipal Year 2020/21.

(Councillors Johnson, Maple and Stamp requested that their abstention from the vote be recorded.)

**70 Election of Vice-Chairman**

Councillor Tejan was elected Vice-Chairman of the Committee for the Municipal Year 2020/21.

(Councillors Johnson, Maple and Stamp requested that their abstention from the vote be recorded.)

**71 Apologies for absence**

Apologies for absence were received from Councillors Etheridge, Khan, Murray, Wildey and Williams.

(During this period, the Conservative and Labour and Co-operative political groups had informally agreed that due the Coronavirus pandemic to run

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Medway Council meetings with reduced number of participants. This was to reduce risk, comply with Government guidance and enable more efficient meetings. Therefore the apologies given reflected that informal agreement of reduced participants.)

### **72 Record of meeting**

The record of the meeting of the Committee held on 30 January 2020 was agreed and signed by the Chairman as correct.

Councillors Johnson, Maple and Stamp requested that their votes in favour of the decision be recorded.

### **73 Urgent matters by reason of special circumstances**

There were none.

### **74 Disclosable Pecuniary Interests or Other Significant Interests and Whipping**

#### Disclosable pecuniary interests

Councillor Stamp disclosed that, in relation to agenda item no 8 (Medway Norse Update), that he was employed by the Environment Agency which regulated household waste recycling centres, which were referred to in the report.

#### Other significant interests (OSIs)

There were none.

#### Other interests

In relation to agenda item 9 (Housing Enforcement and Licensing Policy) and agenda item 10 (Member's Item – Selective Licensing) Councillor Hackwell disclosed that his wife is a private landlady.

In relation to agenda item 12 (Voluntary Sector Task Group), the following interests were disclosed:

- Councillor Hackwell as a Trustee and Treasurer of a charity in Medway.
- Councillor Buckwell as a trustee of a charity which operated partly in Medway.
- Councillor Johnson as a Trustee of two Medway charities.
- Councillor Maple in respect of the charities registered in his Register of Interests.

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- Councillor Tejan as a trustee of a charity.
- Councillor Clarke as a Chatham Charities Trustee.

### **75 Petitions**

#### **Discussion:**

Members considered a report advising the Committee of two petitions received by the Council which fell within the remit of this Committee including a summary of the response sent to the petition organisers by officers.

The first petition related to Uber, which Members were asked to note. The Council's response to the second petition, which related to Medway Norse, had been referred to the Committee by the lead petitioner.

In relation to the petition on Uber, an update was requested on the Council's current position on Uber and also regarding the legal position facing Transport for London following the latter's decision not to grant Uber a further private hire operator's licence. The Chief Legal Officer advised that progress in respect of both issues had been halted as a result of the pandemic but he was monitoring the situation and would report any developments to Members. Once the TFL legal situation was clarified the Council would be able to continue its discussion with local taxi drivers.

Mr Richard White, Unite the Union, addressed the Committee on behalf of the lead petitioner on why the Council's response to the petition had been referred to the Committee to review. Mr White noted the challenges the pandemic was creating for employers and employees, with added pressures in waste services. In some cases this had led to a trade-off between the health and safety of workers and a business as usual approach. Guidance had been produced on how this potential conflict could be avoided and this recommended measures such as reduced collections, limiting the number of people in a cab etc. The phrase "where possible" was used in the guidance but most employers followed the spirit of the guidance and others had gone beyond the Union's expectations in providing a safe place of work. However, in Medway Mr White considered that Medway Norse had relied too heavily on the phrase "where possible" to not meet their obligations to the workforce. The union considered the de-recognition of the union and the dismissal of 13 employees a hostile act which reflected badly on the Council. He called on the Council to instruct Medway Norse to immediately re-engage with the union and re-instate the recognition agreement.

In discussing the issues, some Members expressed sympathy for the union's position and that the decision to de-recognise the union in a time of crisis was adversely affecting the Council's reputation locally and in the wider local government family.

It was proposed that the petition response be referred to Cabinet to consider the issues raised and the reputational damage to the Council; that the

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Councillor Conduct Committee be asked to review the process for granting dispensations to Members who serve on Council subsidiaries and whether existing dispensations were still appropriate, and that the Chairman and Opposition Spokesperson of the Committee write to Unite the Union and the Chief Executive of the Medway Norse Group to express their concern and wish for both parties to meet to try and resolve the problems.

These proposals were put to the vote but not agreed. (Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

The role of Members on the Boards of Medway Norse and Council owned companies was also questioned.

The Chief Finance Officer, corporate client for Medway Norse, re-iterated the comments made by the Deputy Chief Executive in his response to the petition and the referral request, adding he could not comment on what were operational matters for Medway Norse to deal with. The Chief Legal Officer added that the role of the 2 Directors appointed to the Medway Norse Board was to set the strategic direction and not to deal with employee relations, which were also not a matter for an Overview and Scrutiny Committee. In response the point was made that the issues raised by the petition affected the credibility of the Council and called into question whether the Council should have a 50% stake in the joint venture, which was a strategic issue. In terms of how O&S could hold Medway Norse to account, the Chief Legal Officer advised that the role of the Committee was to look at the performance of Medway Norse. If Members wished to see a prohibition on Medway Norse de-recognising a union then they could seek to have the agreement between the Council and Medway Norse amended to that effect.

### **Decision:**

The Committee agreed:

- a) in relation to the petition regarding Uber, to note the petition response and appropriate officer action as set out in paragraph 3 of the report;

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

- b) in relation to the Medway Norse petition, to note the petition referral request and the Director's response in paragraph 5 of the report and to thank Mr White for attending the meeting and speaking on the petition referral request.

(Councillors Johnson, Maple and Stamp asked that their votes against be recorded.)

**76 Medway Norse Update**

**Discussion:**

Members considered a report which represented a review of the performance of the Joint Venture from the perspective of the Council client for the third and fourth quarters of the 20219/2020 financial year. It was accompanied by an update on the Joint Venture's achievements and financial performance prepared by the Partnership Director at Medway Norse.

The Partnership Director advised that within the financial year efficiencies in grounds maintenance and highways meant that an additional £60,000 had been returned to the Council.

Members welcomed the general lack of complaints about waste collection during the pandemic, in spite of a big increase in the amount of waste left out.

Whether Medway Norse was still delivering more for less and providing value for money for the Council was queried. The Partnership Director responded that Medway Norse had delivered efficiencies and invested in plant and machinery. The Chief Finance Officer added that Medway Norse had largely absorbed much of the inflationary pressures that would otherwise have faced the Council. He believed the Council was receiving value for money and that the services provided by Medway Norse had improved. Where Medway Norse was delivering additional services as a result of the pandemic which the Council had to pay for, this would be a call on the additional funding provided by the Government.

The number of Kent residents who had used HWRCs in Medway was questioned, given the recent capital investment by the Council to improve the centres. If the numbers were small, would the County Council continue to pay the Council to take waste from its area? The Partnership Director believed there was information on this but it was not held by Medway Norse. The capital investment in the HWRCs had increased the efficiency of the sites and without this they could not have re-opened as soon as they had done.

Noting there had been an increase in fly tipping in some areas, the Partnership Director accepted this was a challenge. He was working closely with the Council's enforcement team and any evidence found at a fly tipping site was passed to the Council. However, Medway Norse was not responsible for enforcement or installing CCTV.

In response to a query about the HWRC budget, the Partnership Director undertook to clarify the breakdown of the £113,516 additional unbudgeted work referred to.

Noting pupils would be returning to school in September, the Partnership Director was asked about his plans to transport the more vulnerable given the need for social distancing in vehicles and protective measures for drivers. Members were advised that, following a risk assessment, vehicles used for

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school transport would only be able to carry a much smaller number of children. Measures had been put in place such as sanitisers, a screen behind the driver and seat covers. This inability to transport the maximum number of children in a vehicle presented a challenge for the SEN team and Medway Norse. It was not possible to use any more vehicles so Medway Norse's costs were fixed and additional costs were more of an issue for the Council's SEN team.

Responding to a query about whether any of the wider Norse Group had de-recognised a Trade Union and whether Medway Norse were willing to negotiate with the union to resolve their concerns, the Partnership Director advised that to his knowledge this had not happened anywhere else in the Group. He was willing to meet with Unite's new regional officer and he hoped relationships could be re-built.

The Partnership Director commented that the entire operational fleet had been replaced. This included 8 new electric vehicles and he hoped to purchase more.

Members expressed their thanks to all Medway Norse employees for their phenomenal hard work over the last few months in successfully delivering services in a very difficult environment. These were services which residents very much appreciated.

Noting the difficult financial situations many organisations found themselves in, the Partnership Director was asked if any thought had been given to what would happen if contracts were handed back or requests to re-negotiate contracts were received. The Partnership Director commented that the wider Norse Group were discussing risks and finance. For Medway Norse there were challenges but it was now delivering more services as a result of the pandemic. There may be a need to reduce some services as pressures increased during the year.

In the light of Deangate Ridge becoming a temporary home for some Medway Norse equipment, the relationship between Medway Norse and the parish council was questioned. The Partnership Director advised that Medway Norse had met with the parish council when the planning application was submitted. Efforts were being made to relocate the equipment by 1 October 2021 deadline.

In terms of the split between Council income (directly and indirectly) and non-council income generated by Medway Norse, the Partnership Director advised that prior to the pandemic he had been close to generating £3m in income. At present Medway Norse was generating more of its profit from external business, which benefited the Council.

The point was made that the section in the report on compliments and complaints contained more information about the former. The Partnership Director responded this was a valid point and would look to include more details about complaints in future.

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In response to a question about weed spraying, the Partnership Director confirmed that Medway Norse had adhered to the instructions on this from the Cabinet and was trialling new greener options.

### Decision:

The Committee agreed to:

- a) note the contents of the report and its appendix;
- b) place on record its support and thanks to all Medway Norse staff for their excellent work in the recent exceptional circumstances
- c) ask that the next report include an update on weed spraying.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

## 77 Housing Enforcement and Licensing Policy 2020

### Discussion:

Members considered a report which advised that, following a review of technical and legislative amendments a revised Housing Enforcement and Licensing policy, enacting the relevant provisions of the Housing Act 2004 and Housing and Planning Act 2016 had been approved by Cabinet on 12 May 2020.

The following issues were discussed:

- **Consultation** – noting that the consultation exercise had resulted in 17 completed responses, the point was made this was a disappointingly low number and the analysis which broke this number down into percentages was therefore of limited value. The response probably accounted for only 3-4 tenants out of 200,000 properties. In addition, many landlords had 1-2 properties so most would not be aware of the new policy. The Head of Housing responded that the response rate was not as high as he would have liked and as many avenues as possible had been used to engage with landlords and tenants. The consultation had been carried out by the Communications team but he would look at how the number of responses in future could be increased. A wider point was made that the Council's record on consultation generally was poor in terms of generating a meaningful number of responses.
- **Enforcement action** – the Head of Housing was asked to clarify what a "reasonable amount of time" meant in the context of attempting to secure required improvements informally. Members were advised that this would involve assessing a number of issues such as the condition of the property, how severe the problem was, property type, time of year and the effect on the tenants etc.

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- **Ability to raise concerns** – it was suggested that how individuals were able to raise concerns (e.g. modern slavery) should be included in the policy. The Head of Housing explained there were several routes for this including directly into the team, the Medway Task Force and via safeguarding policies in children's and adults services. He would look to see how this could be publicised more though.
- **Issuing HMO licence/renewal** – in terms of whether complaints could be considered as part of this process, the Head of Housing advised they were taken into account but this was balanced against how well the HMO was being managed. The number of new type of HMOs licensed so far would be clarified.
- **Accreditation Schemes** – the possibility of the Committee looking at how robustly accreditation schemes across the Council were monitored was suggested. The Head of Housing commented that the landlord and tenant accreditation schemes had been passported from other areas. The tenants accreditation scheme explained landlords' responsibilities. The team were proactive in informing tenants how to report problems. There was a Landlords forum hosted by the Council but not all engaged with this. Ultimately it was a landlord's responsibility to be aware of their obligations.
- **Database of rogue landlords** – the extent to which tenants could access this was queried. Members were advised this was a national database and whether it included there any Medway landlords would be clarified.
- **Impact of new policy** – whether the impacts of the new policy, including the number of enforcement actions taken, would be reported to the Committee was queried. The Head of Housing advised this was measured through the Council Plan process but he could report back to the Committee in 12-18 months. The point was made that the maximum penalty under the policy for specific offences was £30,000. But as this only applied to a portfolio of 20 or more properties then it was arguably quite a low figure. The Head of Housing commented he thought the penalty charges were based on comparable councils but would update Members if that was not the case.

### Decision:

The Committee agreed to:

- a) support the new Housing Enforcement and Licensing Policy;
- b) request a report to a future meeting on how the policy is being monitored;
- c) ask Cabinet to review the consultation process across the Council, including response levels.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

**78 Member's Item - Selective Licensing**

**Discussion:**

Members considered a report which responded to a Member's item submitted by Councillor Curry on selective licensing.

Councillor Curry spoke in support of his item, commenting that the introduction of a selective licensing scheme would be a refinement of the existing licensing scheme. The Council had the power to designate certain areas for selective licensing to tackle problems such as low housing demand and anti social behaviour. A scheme would help to drive up property standards and the quality of accommodation in the private rented sector and help boost the local economy.

Whether a selective licensing scheme had to apply to an entire ward or instead be adopted in relation to a specific area within Medway was queried. The Chief Legal Officer advised that a scheme could be adopted in respect of the entire area of Medway or any part of Medway.

The need for a selective licensing scheme was questioned given the new Housing Enforcement and Licensing Policy had only recently been agreed and it was suggested that consideration of it should be deferred until there was a chance to evaluate the effectiveness of the new policy. The possibility of landlords moving to another area not covered by a selective licensing scheme or passing on the costs of it to their tenants was mentioned.

There was general support amongst Members for the proposal that further work be done to explore the possibility of introducing a scheme. The point was made that ward councillors should be consulted as part of this work.

Noting that approval from the Secretary of State was needed for schemes that covered more than 20% of the authority's area, it was suggested that this should not in itself be seen as a barrier if the evidence led to that conclusion.

In terms of the resources needed to enforce a scheme, Members were advised that the scheme should be self financing.

**Decision:**

The Committee agreed to recommend to the Cabinet that officers commence work to formally assess the need for selective and/or additional licensing in specific areas of Medway.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

**79 Revenue and Capital Budget Outturn 2019/20**

**Discussion:**

Members considered a report detailing the final revenue and capital outturn position for the financial year ended 31 March 2020. These figures would form part of the Council's Statement of Accounts, which due to the government extension granted in response to the disruption caused by Covid-19, would be considered by the Audit Committee in Autumn 2020. The Round 3 Revenue and Capital Budget Monitoring Reports were scheduled to be considered by this Committee at its April meeting which was then cancelled; as such the Cabinet version of the report was provided as an Appendix to this report for Members' information.

In response to a question, the Chief Finance Officer commented that it was difficult to be exact but his estimate was that about £2.5-3m of the savings identified mid year were a result of the moratorium on spending. In terms of how staff morale was affected after £5m of savings were identified at the end of the financial year and after the moratorium, the Chief Finance Officer considered that morale was good as a result of the 2019/20 budget addressing some long-standing budgetary issues. However, the covid pandemic had been a major setback and undone much of this work.

An update on the police investigation into alleged fraud at Medway Commercial Group was requested and the Chief Legal Officer advised that the police were still investigating these allegations. They had expected to conclude this in the summer but the pandemic had impacted on this. He hoped that there would be an update in the next few weeks.

Reference was made to the delay in building the new academy in Rainham which had not been the fault of the Council yet the authority had to fund the cost of a new surge class at a cost of £1m-1.5m. The Chief Finance Officer agreed this was unfair on the Council. Representations had been made to the government and whilst some government funding had been received this did not represent to full costs borne by the Council.

The 3% MCG agency fee was questioned and Members were advised that MCG acted as an intermediary when recruiting staff. The Council had paid £300,000 in agency fees in 2019/20.

Noting that the Intu property group which owned major shopping centres had gone into administration recently, officers' views were sought on the potential risk to the Council as the owner of the Pentagon centre. The Chief Legal Officer commented that it was too early to give any assurances or forecast what might happen but he would update Members on the risks facing the Council as soon as he could.

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### **Decision:**

The Committee agreed to:

- a) note the 2019/20 revenue and capital outturn position and the Round 3 revenue and capital budget monitoring reports, and
- b) place on record it thanks to all the staff in the finance team for their exceptional work during the covid crisis.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

## **80 Voluntary Sector Task Group**

### **Discussion:**

Members considered a report asked the Committee to approve the final report of the Voluntary Sector Task Group. The report also provided Members with an update on activity in the voluntary sector and the Council in response to the Covid-19 pandemic.

### **Decision:**

The Committee agreed to:

- a) approve the report and recommendations made by the Voluntary Sector Task Group and recommend it to Cabinet;
- b) note the update on activity within the voluntary sector and the Council since March 2020 in response to the Covid-19 pandemic and;
- c) agree that a report on progressing the actions agreed by Cabinet be submitted to this Committee in January 2021 and that this update be given in the context of the latest situation with regard to the Council's Covid-19 Recovery Plan.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

## **81 Work Programme**

### **Discussion:**

Members considered a report regarding the Committee's current work programme. The report also provided an update on action to strengthen overview and scrutiny arrangements in Medway and recommends that the next Task Group should focus on a topic related to Early Help, to be led by the Children and Young People Overview and Scrutiny Committee.

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It was proposed that the date of the March 2021 meeting be changed from 25 March to 30 March.

The efforts of the Democratic Services Team in helping to make remote meetings work was noted.

It was suggested that the Health and Adult Social Care O&S Committee be asked to consider adding to its work programme the issue of how DMC Healthcare had communicated with Members and the community its decision to close surgeries.

### **Decision:**

The Committee agreed to:

- a) the proposed changes to the Committee's work programme as set out in paragraph 3.2 of the report;
- b) note the work programmes of the other overview and scrutiny committees;
- c) recommend that, beginning with the next round of meetings, all the O&S Committees should scrutinise the Council's response to the Covid-19 pandemic insofar as it relates to their remit;
- d) note the update on actions to strengthen overview and scrutiny arrangements in Medway and also the progress on action in response to the recommendations of the Commissioner for Children's Social Care, as set out in section 6 of the report;
- e) agree that the next Task Group should focus on a topic related to Early Help, to be led by the Children and Young People Overview and Scrutiny Committee;
- f) recommend that the Health and Adult Social Care O&S Committee adds to its work programme the issue of how DMC Healthcare communicated with Members and the community its decision to close surgeries and;
- g) agree that the date of the March 2021 meeting of the Committee be moved to 30 March.

(Councillors Johnson, Maple and Stamp asked that their votes in favour be recorded.)

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**Chairman**

**Date:**

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