

PERFORMANCE MANAGEMENT SCRUTINY COMMITTEE AGENDA

Wednesday, 18th May 2022 at 7.15pm

**Council Chamber, Braintree District Council, Causeway House,
Bocking End, Braintree, CM7 9HB**

This meeting is open to the public and will be available to view via the Council's webcast
and YouTube channel

<http://www.braintree.gov.uk>

<http://www.braintree.gov.uk/youtube>

**Members of the Performance Management Scrutiny Committee are requested to
attend this meeting to transact the business set out in the Agenda.**

Councillor J Coleridge
Councillor G Courtauld
Councillor Mrs C Dervish
Councillor Mrs T Everard
Councillor M Radley (Chairman)

Councillor S Rehman
Councillor B Rose
Councillor P Schwier (Vice-Chairman)
Councillor N Unsworth

Members unable to attend the meeting are requested to forward their apologies for absence
to the Governance and Members Team on 01376 552525 or email
governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the second working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Friday, (where there is a bank holiday Monday you will need to register by midday on the previous Thursday). Public Question Time speakers may participate in person or virtually. Speaker preference must be indicated upon registration.

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

All questions or statements should be concise and should be able to be read within 3 minutes allotted for each question/statement.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Public Attendance at Meetings:

Public attendance is welcomed, but is subject to restrictions due to the Council's arrangements for keeping Causeway House Covid secure and visitors safe.

Public attendance is limited and will be on a first come first served basis with priority given to Public Registered Speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public may not be able to sit in the Council Chamber, but will be able to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast, or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend. Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast, or to contact the Governance and Members Team to reserve a seat within the public gallery.

Health and Safety/COVID:

Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed at Causeway House or given by Officers during the course of their attendance.

Anyone attending meetings is asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until it is safe to return to the building.

Documents: Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of MS Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy.

https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

Mobile Phones:

Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

Webcast and Audio Recording:

Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

Comments and Suggestions:

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

- 1 Apologies for Absence**
- 2 Declaration of Interests - Scrutiny Committee**
 1. To declare the existence and nature of any interests relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice (where necessary) before the meeting.
 2. To declare the existence and nature of any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Committee or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote on any particular matter.
- 3 Minutes of the Previous Meeting**

To approve as a correct record the minutes of the meeting of the Performance Management Scrutiny Committee held on 23rd March 2022 (copy previously circulated).
- 4 Public Question Time** (see paragraph above)
- 5 Scrutiny Review into 'Section 106 - Open Spaces and NHS Expenditure' - Introduction to Terms of Reference and Work Programme 2022/23** **5 to 11**
- 6 Decision Planner - 1st June 2022 to 31st August 2022**

Members are asked to note the Decision Planner for the period 1st June 2022 to 31st August 2022.
- 7 Urgent Business - Public Session**

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Report Title: Scrutiny Review into 'Section 106 – Open Spaces and NHS Expenditure' – Introduction to Terms of Reference and Work Programme 2022/23	
Report to: Performance Management Scrutiny Committee	
Date: 18 th May 2022	For: Noting
Key Decision: No	Decision Planner Ref No: N/A
Report Presented by: Jessica Mann, Governance and Members Officer	
Enquiries to: Jessica Mann, Governance and Members Officer Jessica.mann@braintree.gov.uk	

1. Purpose of the Report

- 1.1 To outline the Terms of Reference (TOR) for the Scrutiny Review into '*Section 106 – Open Spaces and NHS Expenditure*' which have been agreed by the Chairmen of the four 'Scrutiny' Committees together with the support of Governance Officers and Management Board. The report also outlines the anticipated Work Programme 2022/23 for the Performance Management Scrutiny Committee.
- 1.2 To ensure that the Scrutiny Review into '*Section 106 – Open Spaces and NHS Expenditure*' is completed within a stipulated timeframe and that it is in compliance with the Council's procedural rules for Scrutiny.

2. Recommendations

- 2.1 Members are asked to:-
- 2.2 Agree the Terms of Reference for the Scrutiny Review into '*Section 106 – Open Spaces and NHS Expenditure*' (Appendix 1 to the report);
- 2.3 Note the anticipated Work Programme of the Committee for 2022/23 (Appendix 2 to the report), and;
- 2.4 Consider the steps they wish to take next in order to commence the Scrutiny Review.

3. Summary of Issues

- 3.1 In January 2022, all Members were invited to participate in the Call for Topics submission process for potential inclusion as the subject of a Scrutiny Review for 2022/23.

- 3.2 Following the conclusion of the Call for Topics process, feedback was provided by Management Board as to which topics they felt it would be most appropriate to bring forward for the purposes of Scrutiny Review. The topics which were ultimately selected for Scrutiny Review were agreed based upon their perceived merit and value to the organisation as the subjects of such Reviews.
- 3.3 Using the initial feedback received from Management Board, extensive discussions then took place between the Chairmen of the four respective Scrutiny Committees and Governance Officers in order to establish the key areas of focus for each topic that Members might explore as part of a Scrutiny Review.
- 3.4 Together with support from Governance Officers and Management Board, the Chairmen have now agreed upon a set of draft Terms of Reference for each proposed Scrutiny Topic. The proposed Terms of Reference are included as part of **Appendix 1**.
- 3.5 It was agreed that the topic of '*Section 106 – Open Spaces and NHS Expenditure*' would be allocated to the Performance Management Scrutiny Committee (PMSC) for the purposes of Scrutiny Review. The topic was originally submitted by Councillor M Radley, Chairman of the PMSC, in order to establish a clearer understanding of the Council's performance in this area and the reasons behind any delays in implementing such funds.
- 3.6 During their initial considerations, Management Board felt that the topic would be more appropriate to take forward through the forum of either a Member Development Evening or Member Reference Group (MRG), rather than as part of a Scrutiny Review, as the topic appeared to seek clarification on the progress of Section 106 monies. However, Councillor Radley felt that there was a fundamental performance issue in relation to Section 106 expenditure and so there was much potential merit in taking the topic forward as part of a Scrutiny Review if recommendations could be drawn from this.
- 3.7 The remaining Chairmen of the four 'Scrutiny' Committees were broadly in agreement with Councillor Radley's comments and added that a Scrutiny Review into this topic could focus on monitoring the process for Section 106 delivery, the timescale and critical stages, as well as examine the NHS elements of Section 106 agreements and how these were being/had been spent. It was therefore agreed that the Scrutiny Review would focus on two main areas of concern, namely (a) BDC controlled expenditure, such as Open Spaces and (b) NHS expenditure.
- 3.8 Councillor Radley subsequently entered into discussions with Councillor Mrs Spray, Cabinet Member for Planning and Infrastructure, concerning the topic and his wish to proceed with a Scrutiny Review in this area. Councillor Mrs Spray has since decided to form a Members Reference Group (MRG) to further understand the constraints in respect of Section 106 expenditure and to make recommendations for improvement. Rather than duplicate the work of

the Scrutiny Committee, the MRG would then report back to the Committee at a later stage with their findings as part of a knowledge gathering exercise.

- 3.9 In conducting their Scrutiny Review into the topic of '*Section 106 – Open Spaces and NHS Expenditure*,' Members of the PMSC should be mindful that NHS resources are stretched and so it can be difficult to both identify suitable representatives and arrange for them to attend meetings.
- 3.10 In addition to the Terms of Reference for the Scrutiny Review, Members are also asked to note the timetable of meetings set out in the anticipated Work Programme for the Committee in **Appendix 2**.

4. Options

- 4.1 There are no options to consider as a result of this report.

5. Next Steps

- 5.1 Further to the report, the Performance Management Scrutiny Committee is asked to consider the next steps they wish to take next in order to commence the Scrutiny Review.

6. Financial Implications

- 6.1 There are no financial implications arising from this report.

7. Legal Implications

- 7.1 There are no legal implications arising from this report.

8. Other Implications

- 8.1 Any duplication of work with the separate Member Reference Group (MRG) being facilitated by Councillor Mrs Spray on Section 106 monies is to be avoided.
- 8.2 Due to the District Elections in May 2023, the Scrutiny Review (including the subsequent Scrutiny Report and any ensuing recommendations) will need to be completed by March 2023.

9. Equality and Diversity Implications

- 9.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 9.3 The Equality Impact Assessment indicates that the proposals in this report will/will not have a disproportionately adverse impact on any people with a particular characteristic. *(Describe the specific equality and diversity implications of the proposal, any adverse findings and the proposed mitigation).*

10. List of Appendices

- 10.1 Appendix 1 – Terms of Reference.
- 10.2 Appendix 2 – Work Programme 2022/23.

11. Background Papers

None.

TERMS OF REFERENCE (TOR)

Committee:	Performance Management Scrutiny Committee
Scrutiny Review Topic:	Section 106 – Open Spaces and NHS Expenditure
Key Questions for Scrutiny Review (SR):	<ol style="list-style-type: none"> 1. What is the process behind NHS use of Section 106 monies? What is the process for delivery/timescale? How are these monies spent, and how are critical stages ‘flagged?’ 2. What is the process behind Council controlled expenditure around Open Spaces? What is the process for delivery/timescale? Critical stages? 3. How effective is the overall performance in respect of Open Spaces and NHS expenditure? 4. PMSC to receive the report and recommendations of the Member Reference Group (MRG) on issues relating to the Council’s responsible expenditure around Section 106 monies.
Key Contacts/resources	Planning and S106 Monitoring Officer. Councillor Mrs G Spray (Cabinet Member for Planning and Infrastructure), NHS Property Services,
Overall Observations	<p>The SR will focus on two main areas of concern only (a) BDC controlled expenditure, such as Open Spaces and (b) NHS expenditure. Members are asked to be mindful that NHS resources are stretched and so it can be difficult to both identify suitable representatives and arrange for them to attend meetings.</p> <p>Members should also note that there is a separate Member Reference Group (MRG) on S106 running alongside SR, to be facilitated by Councillor Mrs G Spray. Any duplication of work between SR and MRG is to be avoided. MRG will report back to the Scrutiny Committee at appropriate time with their findings.</p> <p>Due to the District Elections in May 2023, the SR needs to be completed by March 2023</p>

Performance Management Scrutiny Committee – Work Programme 2022/23

In addition to the Terms of Reference of the Scrutiny Review, Members are also asked to note the timetable of meetings below and anticipated future work programme for 2022/23.

Please note that the dates listed below are indicative only and are subject to both the timings of the Scrutiny Review and the availability of participants.

Council AGM – 25th April 2022
<p>Performance Management Scrutiny Committee – 18th May 2022</p> <ul style="list-style-type: none"> • Outline and agree Terms of Reference for Scrutiny Review into new topic 'Section 106 – Open Spaces and NHS Expenditure.' • Note Work Programme for 2022/23 – Members to consider next steps for Scrutiny Review, any additional meetings, future witnesses, etc. • Agree questions to be raised with witnesses at future meetings (e.g. Sarah Burder (BDC), Neil Jones (BDC), Kerry Harding (NHS)) in respect of 'Section 106' topic. • Note Decision Planner 1st June 2022 to 31st August 2022 <p>Reports to Governance: 3rd May 2022 Agenda Publication: 10th May 2022</p>
<p>Performance Management Scrutiny Committee – 27th July 2022</p> <ul style="list-style-type: none"> • Key witnesses to be invited to attend meeting in order to support Scrutiny Review findings – Sarah Burder (BDC) and Kerry Harding (NHS) • Review Work Programme for 2022/23 – Members to consider next steps for Scrutiny Review, any additional meetings, future witnesses, etc. • 4th Quarter Performance Report • Note Decision Planner <p>Reports to Governance: 12th July 2022 Agenda Publication: 19th July 2022</p>
<p>Performance Management Scrutiny Committee – 21st September 2022</p> <ul style="list-style-type: none"> • Scrutiny of Investment and Development Programme – Cabinet Members/James Sinclair to attend to provide progress update? • Update on progress of Member Reference Group (MRG) • Any further responses from NHS • 1st Quarter Performance Report • Note Decision Planner <p>Reports to Governance: 6th September 2022 Agenda Publication: 13th September 2022</p>
<p>Performance Management Scrutiny Committee (Budget) – 23rd November 2022</p>

- Scrutiny of the Council's Initial Budget Position

Reports to Governance: 25th October 2022

Agenda Publication: 1st November 2022

New Year - 2023

Performance Management Scrutiny Committee – 1st February 2023

- Scrutiny of the Council's Budget position (part 2)
- Discuss/finalise draft recommendations and Scrutiny Report before submission to Cabinet.

Reports to Governance: 17th January 2023

Agenda Publication: 24th January 2023

Performance Management Scrutiny Committee – 22nd March 2023

- Scrutiny topic/content to be confirmed.
- Next Quarterly Performance Report

NOTE: Committee is asked to be mindful of Council Elections in May 2023, the preparation for which will be underway from early March.

Reports to Governance: 7th March 2023

Agenda Publication: 14th March 2023