Committee:	Governance, Audit & Performance Committee	**Date:**
Title:	2021/22 Corporate Risk Register Update – Borrowing & Investments	Monday 22nd November 2021
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Summary

1. This report advises the committee of a new risk in the 2021/22 Corporate Risk Register relating to Borrowing and Investments.

2. The Chartered Institute of Public Finance and Accountancy (CIPFA) has issued a consultation on changes to the Prudential Code, particularly affecting commercial investments. In addition, Government is considering changes relating to Minimum Revenue Provision (MRP) and potential use of Debt Caps. Any of these changes have the potential to result in significant financial challenges for the Council.

Recommendations

3. Members note the inclusion of a new risk relating to Borrowing & Investment (**21-CR-12**) in the 2021/22 Corporate Risk Register.

Financial Implications

4. The Council's £275million investment portfolio generates a net annual revenue return (2023/24 forecast) of £7.1 million. This is used to offset the £16.2 million annual net core service budget. Changes to financial rules relating to investments by Local Authorities could in extremis result in a reduction in the Council's usable net revenue income of that £7.1 million. This risk considers the implications of the proposed changes to financial rules.

Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

   - Draft Prudential Code
   - UDC Cabinet Report, entitled 'Prudential Code consultation and proposed changes to Minimum Revenue Provision and possible debt caps' (15th November 2021).

Impact

6.

Communication/Consultation	Further communication and consultation on

	proposed financial changes once the consultation period is completed, and implications for Council are identified.
Community Safety	No specific implications
Equalities	No specific implications
Health and Safety	No specific implications
Human Rights/Legal Implications	Risk of proposed changes will be managed through building into 2022/23 budget setting process, to ensure a compliant and balanced budget is delivered.
Sustainability	No specific implications
Ward-specific impacts	No specific implications
Workforce/Workplace	Proposed financial changes are likely to directly impact on the workforce both in short & medium terms.

Situation – Government's Proposed Changes

7. In September 2021, CIPFA launched an eight-week consultation on proposed changes to the Prudential Code to take effect from 1st April 2022. In previous versions of the code, CIPFA has advised against the Council making commercial investments 'purely for yield', and Members will be aware that UDC obtained a QC opinion that the Council was not undertaking investments for yield, but instead to generate income to support service delivery.

8. The new proposed code has changed emphasis by rewording the guidance to 'an authority must not borrow to invest primarily for financial return'. This removes the justification given in the QC opinion and could effectively end future commercial investments where that investment is primarily for financial return. There could also be implications for the Council's existing investment portfolio.

9. Following discussions held with senior officials at CIPFA, the Council has provided a proposed wording change as a response to this consultation. Detail of the proposed wording change can be seen in the Council's Cabinet Report, dated 15th November 2021. Without the Council's proposed wording change, an unintended consequence of the financial rule changes could be to force the sale of some or part of these assets quickly. This would create a significant revenue shortfall, risking the Council's ability to achieve a balanced and compliant budget.

10. Further changes the government are considering would also tighten regulations on the Council's ability to undertake commercial investments. The two key

changes being considered relate to Minimum Revenue Provision (MRP) and possible debt caps:

- MRP is where a council would need to set aside an element of commercial revenue income each year to ensure outstanding borrowing could be repaid at the end of a loan period. Uttlesford already applies MRP however at a rate of 0% on commercial assets as their residual value is forecast to exceed their purchase price.
- Debt Caps are also being considered, which would restrict the amount some or all councils could borrow. Although the cap specifics have not been referenced, it is likely this Council would receive such a cap if they were introduced. At what level of borrowing is also unknown; if at a lower level of borrowing than the Council currently have then this cap may necessitate selling some of the Council's commercial assets.

The Risk

11. These government changes are intended to protect the taxpayer from financial difficulties some local authorities have got into through commercial investment. Uttlesford's robust investment criteria and risk management oversight has resulted in our investments being sound and well-managed. Nevertheless, these proposed changes could still affect our existing commercial investment portfolio.

12. The current investment portfolio generates an annual revenue return (2023/24 forecast) of £7.1 million. This is used to offset the £16.2 million (2023/24 forecast) annual net service budget. If the Council was ultimately forced to sell part of its assets due to these proposed changes, it would result in a reduction in usable net revenue income of up to £7.1 million.

13. The next five years, and beyond, could therefore be challenging in balancing existing service delivery demands with reduced revenue budgets.

14. As such, a new risk has been introduced to the 2021/22 Corporate Risk Register (**21-CR-12** *Borrowing & Investments)* to narrate the risk posed to the Council through these potential changes. Appendix A shows this risk, alongside both current controls and further actions which work towards mitigating the impact of this risk. Members should note that the likelihood of this risk is registered as 4 (Near Certainty) for original, current & target likelihoods. The Council is aware that some changes ***will*** happen following the CIPFA consultation and wider Government changes.

15. This risk will be regularly monitored at a corporate level by the Corporate Management Team, and an update brought to the next meeting of this Committee as part of the review of the whole Corporate Risk Register.

Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
If risks are not properly identified or managed then preventable problems could occur and affect the council's finances, reputation or resources.	1	4	The Council's Risk Management Policy and Corporate Risk Register ensure effective risk management is placed centrally within its operations, both at a corporate level and service-level.

1 = Little or no risk or impact
2 = Some risk or impact – action may be necessary.
3 = Significant risk or impact – action required
4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix A – New 21/22 Corporate Risk: Borrowing & Investments