Agenda item 13(i)

Extract from the draft minutes of the meeting of the Governance and Audit Committee meeting of 9 April 2024

424. Draft Statement of Accounts 2022/2023

The Committee considered a report asking that it note the Council's uncertified draft statement of accounts 2022/2023 which has now been published.

The Chair took the opportunity to remind the Committee of its Terms of Reference, and in particular the responsibility of the Committee to consider and approve the Council's statement of accounts, and to review the Council's external auditors annual audit letter. The Committee was reminded of the difficulties which the Council had experienced in obtaining audited accounts on time, or at all, for a number of years in common with local authorities across the Country. The Chair attended meetings of Audit Committee Chairs when these were held, and at the most recent meeting had asked whether it was possible to appoint a local accountancy firm to carry out the Council's audit. Sadly, this was categorically not possible, as there were statutory provisions for the auditing of accounts and a limited number of firms authorised to undertake the audit of local authority accounts. It was suggested that it was intended to complete the outstanding audit by September 2024, and the Committee was reminded that the accounts which were before it were un-audited accounts. The Chair was, however, certain that the information which had been presented to the Committee, with the possible exception of minor typographical errors, was accurate, and he saw no reason for concern. A Committee member had submitted extensive queries in relation to the draft accounts ahead of the meeting, and responses to these had been prepared by the Deputy S151 Officer. Both the questions and answers had been shared with the Committee.

Chris Hartgrove, Deputy S151 Officer attended the meeting to present the report and assist the Committee with its enquiries. The Committee heard that the draft statement of accounts for 2022/2023 which was before it had been prepared in compliance with the Charted Institute of Public Finance and Accountancy (CIPFA)'s guidance, which related specifically to local authority accounting which was different from the private sector in many respects. Appropriate technical advice had been sought when necessary in relation to matters such as taxation, valuations, treasury management and investment recognition and collection fund accounting. The Committee was invited to note that the draft accounts had been published prior to consideration by the Council's external auditors, BDO. The role of the external auditors was to review the draft accounts to determine whether they represented a true and fair view of the Council's financial position at that date. The role of the auditor was to report to the Committee and provide it with a statement on the accuracy of the draft accounts prepared by Officers. A statement by the auditor would be presented to the Committee alongside a set of financial accounts, amended if necessary, and the Committee would then be asked to adopt these. Once adopted as the final set of accounts by the Council and the auditor was satisfied that any concerns raised had been corrected within the bounds of materiality, the auditor would sign the final accounts as a true and fair view. The Committee was reminded that the auditor was working for it to provide assurance of the accuracy of the accounts prepared by Officers. Local government accounting was extremely complex, and therefore the auditors had the requirement to provide technical and professional assurance that the appropriate rules had been correctly applied. Any challenge to the draft accounts at this stage would only be followed by a more rigorous and thorough review of their accuracy by the auditors, before a final set of accounts was presented to the Committee after the audit process had been completed. The Committee was advised that any detailed review of the draft accounts at this stage added little value as any errors in the accounts would be identified and reported to the Committee together with an amended set of accounts. Recognising that this was the first stage of a very thorough process, the Committee was simply asked to note the accounts.

Councillor Willetts was attending the meeting as a substitute, and requested that it be specifically recorded in the minutes that as a substitute he had not been in receipt of the questions which had been asked prior to the meeting, or the answers which had been provided to the Committee, and therefore considered it unfair if the debate was to be restricted to these questions. At the request of the Chair, the email containing both the questions and the answers provided was emailed to Councillor Willetts by the Democratic Services Officer during the meeting.

A Committee member acknowledged that he had posed a number questions before the meeting, and that the Deputy S151 Officer had been very generous in replying, however, he still had serious concerns about the accounts which had been presented to the Committee. These were the only external control for the Council, as the Council did not appear to have cash or borrowing restraints, and it was the audited accounts which told the Council where the boundaries of its behaviour lay. He was unable to reconcile the draft statement of accounts to the budgeting reports which had been presented to the Committee at previous meetings. It was time for the Council to decide whether it wished to simply accept the position with the delay in providing audited accounts, or actively seek a resolution to the position. He was very concerned about accepting the proposed disclaimed audit opinions, and considered that the Committee needed to take this possibility very seriously indeed, and take as much time as was required at the meeting to put forward a real plan to deal with this issue.

The Deputy S151 Officer addressed the issue of a potentially disclaimed audit opinion, and the Committee heard that in this context the external auditors were awaiting specific professional guidance to enable them to issue a disclaimed opinion. He had been advised by BDO that any such opinion would be risk based and would completely comply with the auditing guidance they had been given. The Committee was assured that the accounts could not therefore be signed off without any assurance, albeit limited, being provided. With regard to the current status of the audit, BDO had expressed a hope that the 2020/2021 accounts would be signed off as quickly as possible; the audit work was substantially complete and the audit partner had now returned to work following a planned career break and would be in a position to complete the audit by carrying out a review of the audit work which had been completed. BDO had stated that they intended to sign off the accounts by the end of April, however, this was considered to be an ambitious target. With regard to the 2021/2022 and 2022/2023 accounts, it was intended to proceed to gather the necessary assurance to issue a disclaimed opinion in both instances, and planning work in this regard had already commenced. Confirmation in writing of the timeline of the planned works had been requested from BDO, and would be circulated to the Committee once this had been received. It was not considered that the reason for the delay in the audit could be attributed solely to the career break which had been taken by the audit partner of BDO.

A Committee member noted that the item which was before the Committee was simply the draft statement of accounts for 2022/2023, and the question to be considered was whether or not these accounts should be noted. Although the idea of a qualified audit opinion was very far from satisfactory, it was not felt that this was a decision over which the Council had any control, and the government, in conjunction with the Local Government Association (LGA), considered that the provision of qualified accounts was the way to deal with the huge backlog of audits which existed across the country. The Council did not have the advantage of operating in the private sector where it was possible to change auditors at will.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, attended the meeting and, with the permission of the Chair, addressed the Committee. He confirmed that both he and the Portfolio Holder for Resources took the support which they offered to the Committee very seriously. He had attended meeting of the Audit Committees of Essex County Council (ECC), and advised the Committee that the frustrations with the audit process were the same across all those Committees. The Council should seek to take advantage as much as possible from the arrangements for completing the outstanding audits which would be set out by central government.

The Chair noted that the work programme of the Committee for the municipal year 2023/2024 was on agenda this evening, and suggest that the Committee may wish to ensure that there was an item scheduled for its first meeting of the new municipal year which provided an update on the audit process for all outstanding accounts at that time. The detailed work which the Committee had undertaken over the preceding municipal year was praised, and the input of some of the new members of the Committee was singled out as having been particularly effective in scrutinising the operation of the Council's wholly owned companies. The Committee was reminded that it was being asked to note the draft accounts which were before it, and when the auditors had concluded their work and provided an audited set of accounts to the Committee, it would be able to state whether, or not, it accepted the accounts produced by the auditors were appropriate.

A Committee member did not wish to question any of the content of the draft accounts, assuming that they had been prepared to a high professional standard. However, before giving his vote to note the draft accounts, he sought clarification on some issues. He noted that Councillors had been presented with reports containing management accounts in the past, and when considering the draft accounts which were now before the Committee the income and expenditure figures which were contained in the draft accounts bore no resemblance to the management accounts which had been provided to the Committee. This caused confusion that there were different ways of expressing the Council's gross income in different documents, why did the figures in the draft statement of accounts not appear in the management accounts? Although these draft accounts would now pre-date the dormancy of the Council's wholly owned companies, at some stage in the future the position of the accounts would need to be considered both before and after dormancy, was it possible from this set of draft accounts to clearly understand how the Council had moved into the situation of dormancy? The Chair pointed out that that the Committee had considered the Council's wholly owned companies in some detail in recent meetings, including their statements of account, and although there were potentially issues relating to possible grant repayments, the Committee was reminded that the matter before it at this meeting was the draft accounts which had been presented to it.

The Deputy S151 Officer confirmed that the statutory accounts contained a vast number of technical accounting adjustments which were required, and although the management accounts were reconcilable to the statutory accounts, these were presented in a very different format, and had been simplified to provide greater transparency. In terms of the Council's net position which impacted on its reserves, a reconciliation would be provided to the Committee to provide assurance on this point. There had been a gap between when the original outturn had been published in September 2023 and the presentation of the draft accounts, and a reconciliation would be provided in respect of this, although the Committee was assured that no material changes would result from this. The Committee noted that the way in which the quarterly outturn reports were presented to it was much more easily readable and accessible than had been the case in the past, and the work of the Finance team was praised in this regard.

A Committee member noted that the Council had to conform to the International Financial Reporting Standards (IFRS), and suggested that to simplify the treatment of the accounts, the Council's management reporting should be aligned with these statutory standards. It was suggested that the Council was only monitoring half of its turnover, most of the reports which the Committee had considered showed turnover at around £70m or £80m, but he believed that, in reality, turnover was closer to £150m. It was necessary to demonstrate the Council's actual turnover somewhere in the management reports which were produced. He believed that it would be very worthwhile to carry out a reconciliation now, and noted the difficulties with providing the necessary resources for this. He considered that there was insufficient support from the Administration for the Council's Technical Finance Team. The Deputy S151 Officer acknowledged the suggestion of reporting on a statutory basis rather than a management accounts basis, but advised the Committee that this would be an extremely difficult task which would not ultimately enable greater understanding of the Council's accounts. It was considered that the management accounts made it easier for the Committee to monitor the position of the budget through the year which was their primary purpose. The additional value which would be provided by an in - year reconciliation was recognised if it was carried out at the appropriate time in the right level of detail. It may not be possible to carry out a reconciliation as a lot of the information required was only obtained at year end, such as annual pension adjustments. The Committee considered that the reports which were produced were at a level which could be readily understood by the majority of Councillors, and not just members of Cabinet or this Committee.

A Committee member maintained that it was essential that the management reports showed the Council's actual turnover, which had a very important legal meaning. In terms of the reconciliation which had been requested, it was suggested to the

Committee that this would be an audit test which the Council's external auditors would require to be carried out, and this work would therefore have to be undertaken in any event. Alarm was expressed about the passive stance which the Committee had taken to the problem of obtaining audited accounts, and it was suggested that a different approach was now needed. A position paper was requested dealing with the key points of disagreement which had been expressed in relation to the draft accounts which had been presented to the Committee which were major repairs, depreciation and post balance sheet events to clarify the Council's position as these were matters which would be considered by auditors. It would also be useful to prepare another, tidier, set of draft accounts prepared with input from the suggested position papers, which reconciled with the monitoring reports. The Committee was urged to take a 'carrot and stick' approach with the Council's auditors, BDO. The fee which the Council had paid to them of £39,000 was considered to be low to deal with such complicated accounts, when in the past the Audit Commission had been paid £200,000 for this work. The Council had appointed new auditors in KPMG, and it was suggested that the possibility of this firm taking over the outstanding audit work from BDO earlier than planned could be explored, as it was considered that BDO would be in breach of the contract with the Council. The suggested approach was therefore to offer the 'carrot' of an enhanced audit fee for completion of outstanding works, with the 'stick' of another firm completing this work if BDO was unable to complete it. The Council needed to be as pro-active as possible to ensure that audits were completed. It was also necessary to explore the impact of disclaimed accounts on the work which KPMG would be undertaking in the future, would this lead to further qualified audit opinions?

Noting the suggestions which had been made, the Chair invited a specific motion to be put to the Committee which clarified the recommendations which the Committee was being asked to make to Cabinet.

The Leader of the Council addressed the Committee and cautioned against the use of pejorative language when discussing the current position, as this did not reflect fairly on the hard work of staff or the administration's attitude to the situation. The Council did have to make the best of the circumstances it found itself in, and take steps to make a difference where it was able to. The Council was bound by nationally negotiated arrangements, and an industry-wide way forward had been proposed, which it was not possible to circumvent or overturn. It was difficult to see how giving more money to an auditor which had failed to deliver audited accounts could be justified. It was confirmed to the Committee that the administration would not withhold resources from the Council's Finance Team, who would be supported to carry out the work which was needed to the quality required by the auditors.

Although the Committee accepted that the Council did not necessarily have the power to directly influence the completion of the outstanding audit work, it was suggested that the Council did everything within its power to drive completion of the outstanding audit work forward as a matter of urgency.

It was very important to explore what disclaimed accounts would actually mean for the Council. If the accounts were disclaimed, would there still be an inspection period? Was it possible to try to narrow the scope of the disclaimer to keep it to as narrow a scope as possible? Would it be possible for the Council to produce the required Annual Governance Statement is the statement of accounts had been disclaimed? What was the rarity and severity of an audit disclaimer?

The Deputy S151 Officer confirmed that KPMG had been appointed to be the Council's auditors for 2023/2024, and had already begun planning the audit for 2023/2024 with Officers. What the possibility of disclaimed opinions meant for their audit was being considered, however, guidance was awaited and it was anticipated that a method would be put in place for the 2 years following a disclaimed opinion to gradually restore full assurance. A national framework with guidance would be put in place to direct this work. With regard to inspection periods, the auditors did consider that there would be an inspection period for the financial years 2021/2022, 2022/2023 and 2023/2024 for the Council's published accounts prior to the proposed September 30 backstop.

A motion was proposed to the Committee:

"The draft statement of accounts for 2022/2023 be noted, and that it be recommended to Cabinet that:

- Position papers on key points of disagreement were prepared, which were; major repairs, depreciation and post balance sheet events;
- A tidier set of draft accounts be produced which reconciled back to the monitoring reports;
- The consequences of disclaimed accounts be investigated and planned for."

In discussion, the Committee raised concerns about the second recommendation to Cabinet, which could be considered to be disrespectful to Officers, and which did not relate to the subject of the Officer's report, which was to note the draft accounts for 2022/2023. Support was voiced for the preparation of position papers on the main points of disagreement which had been raised. It was queried whether the Finance Team had the necessary resources to meet the expectations inherent in the proposed motion, however, the Committee did note the assurance which had been made by the Leader of the Council at the meeting, that adequate resources would be made available to the Team to meet its obligations. The Committee was concerned to investigate the issue of whether accounts with a disclaimer would on some way impede the Council's new auditors in carrying out audits. It recognised the risk of noting a set of accounts which turned out to not be acceptable to the new auditors because of disclaimer issues, was it possible to narrow the terms of the disclaimer to ensure that the accounts were of use to KPMG?

The Deputy S151 Officer supported the suggestion that the possibility of narrowing the terms of the disclaimer be investigated. With regard to the debate in relation to the preparation of position papers, the Committee was advised that a revision or re-preparation of the accounts together with a reconciliation would all form part of the Council's audit process, and so this would be a duplication of process when the primary focus of the Finance Team at present was preparing the 2023/2024 financial statements, and staff would have to be re-directed from this task to produce the reports suggested. The Committee noted the duplication of work which the suggested preparation of a tidier set of accounts would entail, and was content to remove this suggestion from the tabled motion as it recognised that this work would have to be carried out as part of the usual audit process. Consequently, the motion before the Committee was amended to:

“The draft statement of accounts for 2022/2023 be noted, and that it be recommended to Cabinet that:

- Position papers on key points of disagreement were prepared, which were; major repairs, depreciation and post balance sheet events;
- The Cabinet investigate and plan for the consequences of disclaimed accounts.”

Recognising the differences of opinion which had been expressed during the debate, the Committee resolved to vote on the 2 suggested recommendations to Cabinet separately.

When considering whether or not to note the statement of accounts, Councillor Willetts called for a named vote in accordance with the Council’s General Meeting Procedure Rules 9(3), and this request was supported by Councillor Sunnucks and Councillor Naylor.

Those in favour of noting the accounts:
Councillor Smith
Councillor Jay
Councillor Harris
Councillor Pearson

Those against noting the accounts:
Councillor Sunnucks
Councillor Naylor
Councillor Willetts

RESOLVED that*:* the draft statement of accounts 2022/2023 be noted, prior to the completion of the external audit process.

RECOMMENDED to Cabinet that: the consequences of disclaimed accounts be investigated and planned for.