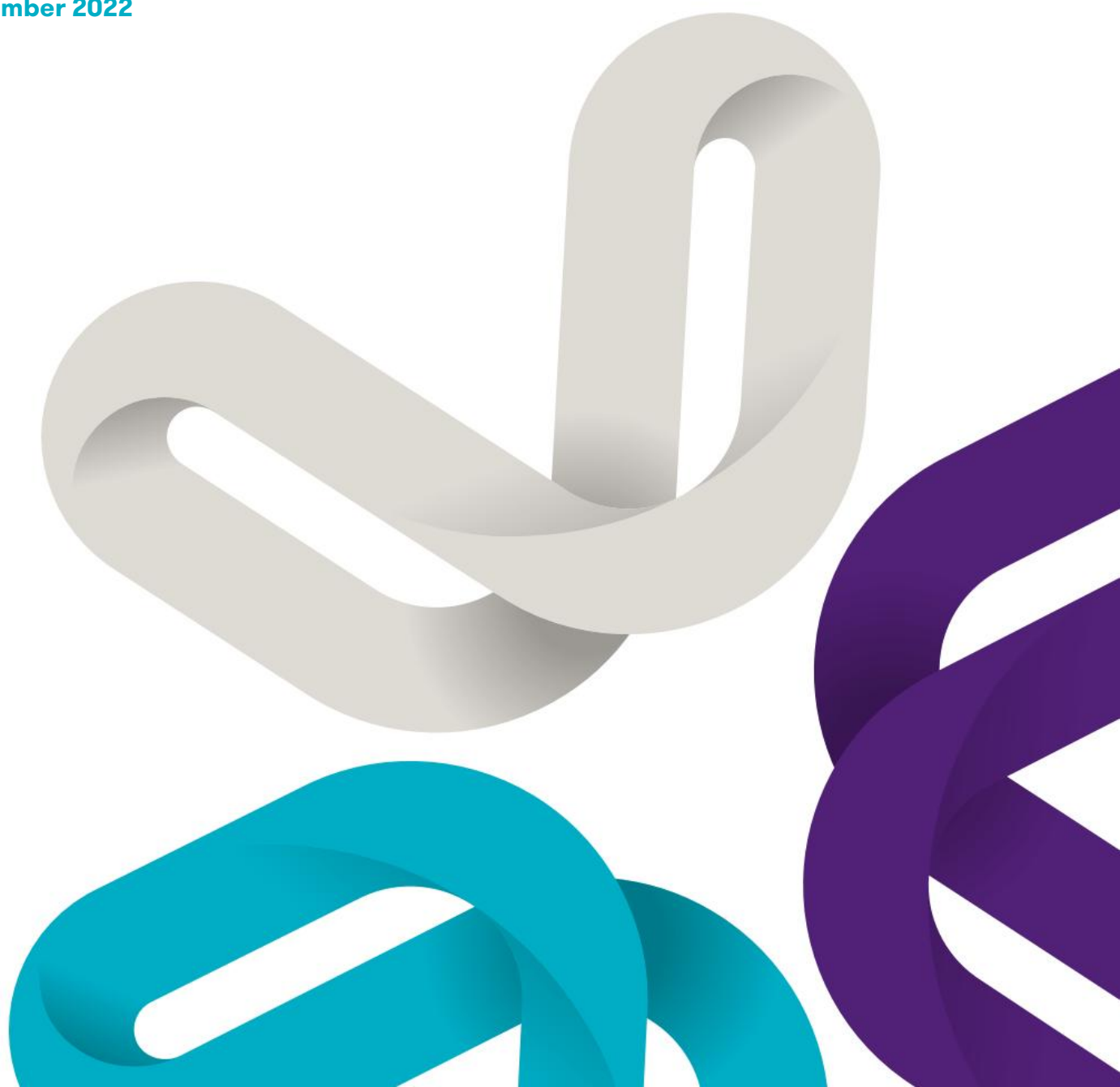


Lessons from Public Interest Reports and other interventions

Part II

September 2022



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Summary

Since our last report on lessons learned from public interest reports (March 2021) there have been a number of further auditor public interest reports and statutory recommendations, along with other interventions such as s114 notices. These have brought into sharp focus the financial management and governance arrangements of local councils. Those used to inform this report are set out at Appendix A.

After years of reduced central government funding, local authority business models have become increasingly reliant on generating additional income to support frontline services. This has led to a number of local councils increasing commercialisation and developing different vehicles to facilitate this, including partnership ventures, joint ventures and local authority trading companies. The recent Public Interest Reports (PIRs) have shown that the failure of council owned companies can have a significant financial and reputational impact on councils.

These reports serve as a reminder that things can go wrong anywhere, and the risks are potentially significant.

Our previous lessons learned report summarised the key issues into five main areas. Many of these areas remain a focus of the latest auditor and government interventions. This report considers the key themes from the latest set of interventions as:



Cultural and governance issues



Failure to understand and manage the risks associated with external companies



Failure to address and resolve relationship difficulties between senior officers and members



Financial capability and capacity



Audit committee effectiveness



2021 report

Cultural and governance issues



A common factor in these recent interventions has been weaknesses in council cultures (e.g. poor behaviours, a lack of transparency) and weaknesses in governance (e.g. a circumvention of governance procedures, poor quality review and decision-making).

Sometimes this occurred where a small group of politicians decided what would happen and chose to stifle the opportunity of statutory officers to raise concerns, or actually encroached on the roles and independence of officers. Sometimes the environment at a council meant officers were excluded from the conversation. Equally, there have been instances where statutory officers were not all comfortable in making agreed challenges in the context of their statutory roles. It is clear from these failings that statutory officers need to work together to form a corporate view.

Equally there have been times when it was the statutory and other senior officers who wanted something to happen and members were not properly sighted, as officers did not want to face barriers. Public discussion was discouraged, which meant members were excluded from or not sighted on decision making.

With both members and officers we have seen strong personalities pushing an agenda. Organisations have been let down by people wanting a particular outcome or by not wanting to expose members or the council to embarrassment by rowing back or performing a “U turn” on a project. Protecting reputations and opting to cover things up rather than identify risks, accept challenge and address problems has ultimately led to more damage, both financial and reputational.

Failure to adequately support whistle-blowers also suggests a council that is not open to challenge. For example, one report stated the council “goes to some lengths to cover up information, and silence whistle-blowers”.

In some councils, this has led to an intimidating culture, a culture of secrecy and in some cases, an overuse of confidential or delegated action reports, which reduced openness and trust in leadership and the corporate culture.

Intimidation was also seen at councils where little instruction or direction was committed to writing. Instructions were given to undertake specific elements of a task to ensure that the total picture was not evident to those carrying out the task.

There have also been cases where both members and officers had a limited understanding of declarations of interest and of gift and hospitality registers. These were not monitored, were often incorrect and rarely updated. We have also seen a lack of appreciation of the Nolan principles and the requirements of the Members Code of Conduct. Linked to this there has been a lack of understanding in how complaints against Members should be handled. Complaints were either not validated or considered appropriate for further formal action by the Monitoring Officer.

And a subset of this culture issue is denial. In cases there has been poor decision making and poor governance, but there has also been evidence of denial. Both a denial that there is a problem and a denial of responsibility for that problem.

This all requires cultural change, and there needs to be a consideration of the training required to affect and initiate the cultural change needed in some councils. We would suggest this training should include an emphasis on the importance of officers and members responsibilities for the stewardship of public monies. There have been examples where there has been a poor recognition of the fact councils are using, and are responsible for, public money. Linked to this, there needs to be a recognition of the need to respect the advice of statutory officers and the findings of internal and external audit. Too often challenge by auditors is felt to be “nit-picking” or “missing the strategic picture”.

The governance around significant decisions is not always adhering to the key starting point of the Nolan Principles – the importance of “selflessness in public office”. These principles are set out at Appendix B.


A culture of transparency should be prioritised, where staff are actively encouraged to flag concerns. All councils should assess their cultures against the lessons learned from this latest tranche of interventions. Even if at present a council does not face financial risks, that assessment is still valid and should be done with an open approach to considering the new risks which might emerge. Councils should consider whether their existing corporate culture could withstand these risks, or whether they could fall into the trap of secrecy and a lack of transparency.

Those providing scrutiny should undergo impartial and independent training to enable scrutiny and audit committees to fully consider key decisions. Such scrutiny should take an overarching view of decisions within the context of the strategic direction and aspirations of the organisation. Consideration should be given to whether the recommended risk and resilience framework, as set out by the Centre for Governance and Scrutiny, has been applied by each council (see Appendix A).

Good practice would consider an annual, independent review of officer/member grievances, to be assessed by the chief executive, monitoring officer and group leaders, with the purpose of making recommendations to minimise further occurrences of dispute.

Recommendations

- Cultivate an open and transparent culture
- The views of statutory officers must be given appropriate regard and these statutory officers need to act in accordance with their statutory responsibilities
- Review and ensure delegations are appropriate and properly applied
- Ensure staff can raise concerns/whistle blow, ensure this is encouraged and ensure this is independently investigated. Formal channels must be in place for the involvement of both the s151 and Monitoring Officers
- Embed an active review of all complaints and a zero tolerance approach to inappropriate behaviours
- Undertake regular training to ensure members and officers are aware of the code of conduct and ensure that members understand their roles
- Ensure members listen to challenge and take action to tackle long standing issues
- If not already in place, councils should consider the introduction of regular reviews of key governance policies such as their Constitution, whistleblowing and confidential reporting, fraud prevention and anti-corruption policies



Failure to manage the risks associated with external companies

Where companies are council owned, that means councils are ultimately responsible for the financial risks and benefits of those companies.

However, many have chosen to continue to fund companies rather than face the reputational damage of winding up a loss-making company. Indeed, some have been seen as 'too big to fail'.

As well as potential issues about unlawful public subsidy, this can put a council in breach of its statutory value for money obligations, including a lack of efficient, effective and economic use of public money. Members need to provide oversight to protect the council as shareholder. In just one of the public interest reports, the cost (loss) incurred by the council has exceeded £30m.

Where councils have invested in innovative arrangements, there is not always a good understanding of the financial reporting regulations associated with that sector. For example, there might not be a strong understanding within the council of Companies Act requirements and applicable accounting standards. That level of expertise should be established from the outset. There have been a number of examples where the accounting implications of financial transactions between a council and its companies have represented a major financial risk to the council, and the implications of this have not always been understood within the council.

Issues seen include:



A lack of understanding of roles and responsibilities



An optimism bias that does not reflect the true position or performance of a company or a lack of an appropriate business case



A lack of strategic rationale surrounding the creation of companies



Inadequate financial governance and monitoring of group entities



A lack of skills around commercial decision making



A lack of scrutiny over investment or loan decisions to companies



A reluctance from some members and senior officers to listen to challenges



The quality of risk assessment and risk management arrangements when investing in commercial activities has been poor at some councils. We recognise that members (and officers) are often deeply invested, both personally and professionally, in these schemes, but the desire for them to be a success can overshadow an appreciation of risk management. Councils often borrow large amounts to invest in these companies, but the level of risk management is not in line with what we would expect to see at equivalent commercial investment management companies.

Where advice on investment decisions has been sought, this is not always truly independent, or is not high-quality advice from a reputable provider. Nor does this advice always include a comprehensive assessment of risks. Advice has sometimes been sought from a party who already shares the council's desire to proceed with an investment, so the advice simply provides a confirmation bias. There have been business cases which reflect an optimism bias and do not identify and evaluate the potentially negative outcomes of a scheme, such as a council losing the money committed to the investment (money which may have been sourced from borrowings). These scenarios should consider how council tax payers might adjudge these decisions in 10-15 years' time should the council lose significant funds in any investment.

Member challenge and scrutiny of complex schemes can also sometimes be weak, and some councils lack the experience and understanding of the new specialist areas into which they are looking to invest. And where a company is delivering a service, there can be a tendency to provide service-level type reporting to the Board of that company. Members may sit on these boards, and members tend to understand service level reporting. But generally we would not expect to see service-level reporting to a company board. In fact, a focus on service reporting can be at the expense of the expected level of corporate oversight and risk management.

At the outset, those involved in companies might be known by and trusted by members. But these key characters, or their roles and responsibilities, can change over time, and oversight should never be based on trust or familiarity. We have seen the drive to deliver new outcomes can result in an impatience over governance arrangements and councils not taking the time to challenge and reassess these.

Recommendations

- If entering into complex or large company arrangements, focus on accessing the right financial and legal advice. This should include advice on Companies Act, tax and group accounting requirements. This advice should be from a suitably qualified party with no interest in or relationship with the deal, and include a suitably comprehensive appraisal of all risk factors
- Provide formal training in external companies and update this regularly, for both members and officers
- Assess whether the directors appointed to a company are equipped with suitable skills. Directors should be able to interrogate management accounts and the assumptions upon which the cashflow and any profit is founded. Members should then be able to hold a company to account through the shareholder or service commissioning functions
- There should be explicit shareholder agreements in place and the appointment of nominated shareholder representatives. Where these are already in place, consider whether they continue to reflect current circumstances
- Consider whether the focus of reporting on the work and activities of companies is appropriate. Is there an appropriate separation of the strategic oversight from operational service delivery reporting? Governance arrangements over companies should be regularly reviewed to ensure they remain appropriate for the size and activities of the companies
- Review other sources of guidance for a steer on good practice. For example, Grant Thornton "In Good Company" 2018, Grant Thornton "Spreading Their Wings" 2015 and CIPFA report "Local Authority Owned Companies: A Good Practice Guide. (see Appendix A)

Failure to manage relationship difficulties



Deteriorating senior officer and member relationships over a number of years has been a theme in the latest tranche of auditor interventions. In some councils, a significant amount of time and resources have been spent responding to internal allegations and complaints. The cost of legal advice alone at one council has been in excess of £1m.

This has some linkage with the themes identified as cultural failings, in that there have been inadequate governance arrangements in place in overseeing the responses to whistleblowing, grievance and disciplinary procedures.

In some cases, this has involved a failure to involve elected members in good time. There have been occasions when members have used Freedom of Information requests to obtain information to which they were already entitled. In other cases, we have seen that when statutory officers have tried to stand up for what was right and been challenged, that has resulted in a total breakdown of relationships between members and officers. Where these behaviours have been poor, we have seen officers being pushed out of the organisation and paid off with non-disclosure agreements and severance payments, which were designed to circumvent transparency and governance.

In a number of cases, there have been unlawful or ill-advised payments to former Chief Executives following long standing relationship breakdowns. The costs of these pay outs have been over £100,000, which has resulted in significant reputational damage to the councils involved.

These failures to identify and mitigate conflicts of interest in investigating and ruling upon processes has resulted in:

- the subject of complaints being allowed the opportunity to influence the governance process,
- a failure to involve elected members at an appropriate stage and a failure to provide them with adequate information to form a considered view on relationship issues and
- a failure to establish and recognise statutory responsibilities in relation to whistleblowing.

Recommendations

- Senior leadership, both officers and members, must demonstrate that they can continue to work together effectively, that they operate in line with their council's values, codes, policies and procedures, and that there is a zero tolerance approach to inappropriate behaviours
- This might include a review of the organisational culture in relation to complaints, and training for officers and members on their roles and responsibilities in relation to these parts of their council's constitution
- Where there have been complaints, grievances or disciplinary proceedings, review the management and oversight of these in the light of this report



Financial capability and capacity

Many council finance departments have suffered from underinvestment, as back-office services were impacted during austerity, with councils attempting to protect front line services. This has impacted on skills and capacity in many cases. There are now significant weaknesses in succession planning, in understanding the financial accounting implications of new and innovative schemes, and in the production of financial statements, the requirements for which have grown significantly more complex in recent years.

At some councils there has been a prevalence of interim and acting up arrangements in senior finance officer roles and without effective back-fill arrangements in place, this has resulted in capacity challenges for many finance teams. These temporary arrangements have contributed to some confusion over key roles and responsibilities. Interim staff are not and should not be seen as a substitute for an internal, fully staffed and skilled finance team.

It is not clear from where the next generation of s151 officers will be found. Councils are increasingly looking to recruit s151s from outside their organisation, as they have not invested in developing the next cohort of senior finance specialists. This means councils are all looking to the same external pool which cannot meet the demands for future s.151s.

Consequently, there have been many examples of late and poor quality financial statements, without sufficient and robust accompanying working papers. Only 69% of councils in England submitted draft 2021/22 accounts to their auditors by the required deadline, a reduction on the 77% who met the deadline the previous year. Additionally, there are some councils without a strategic medium term financial plan. In some cases, reserves have significantly diminished. The key concern here is the lack of recognition and/or understanding of the extent and impact of these challenges.

We believe there may be similar challenges in the Monitoring Officer community with underinvestment in skills and capacity and an excessive reliance on interims.

The CIPFA Financial Management Code came into full force on April 1, 2021, after a shadow year. Members and corporate management teams should take responsibility in ensuring its requirements are met and deploy extra resources where necessary.

Recommendations

- Capacity constraints within teams should be identified and recruitment to fill key posts prioritised
- Finance teams must have the skills to take appropriate and timely action when budget overspends are identified, or when it's clear savings cannot be delivered
- Training needs within finance teams should be assessed and addressed. This should include a focus on the arrangements to produce high quality draft financial statements
- Succession planning needs should be considered, with a longer-term view as to when there might be a gap in senior, experienced officers. Consideration should be given to investing in training the next generation of finance specialists
- Consider the CIPFA Financial Management Code and what actions are required to ensure full compliance with these requirements

A photograph of two women in an office environment. One woman with long dark hair is leaning over a laptop, pointing at the screen. The other woman, with curly hair, is looking down at the laptop. A blue lanyard is visible around the neck of the woman leaning over. The background is blurred, showing office shelves.

Audit committee effectiveness

The lack of audit committee effectiveness has not been an issue substantial enough for a public interest report in its own right, but we are increasingly seeing this as an issue. A robust internal audit service and audit committee are important lines of defence within a council's control environment. This committee should provide assurance on the arrangements in place over governance, risk management and the overall control environment, as well as review the financial and non-financial performance at a council.

Audit Committees should, as defined by CIPFA, have a membership that is "balanced, objective, independent of mind, knowledgeable and properly trained to fulfil their role" with a "strong, independently-minded chair...who promotes a-political open discussion". We have seen examples of committees voting on party lines, failing to accept the merits of challenge from opposition party members and failing to demonstrate these other characteristics as described by CIPFA.

Without the right balance of skills and knowledge on audit committees, they are unable to provide the expected level of scrutiny, so there needs to be a focus on designing and delivering the required training for members carrying out roles on audit committees. Some committees provide little challenge by members on the agenda items presented, or on the forward plan of work to be considered by the committee. There should also be a consideration of more appointees who are independent experts to help provide a focus on asking the right questions, and ensuring the implementation of agreed actions has been carried out appropriately.

In some places, there is a need to accept challenge as useful opportunity to reflect and identify improvement opportunities. Challenge should be used as an opportunity to embrace an outside view. At some councils, there is a risk that the response to external audit could veer into intimidation, so members and officers must always be professional in their interactions with external audit. External audit do not discharge their responsibilities lightly and councils need to guard against inappropriate behaviour towards audit and external advisors. The Nolan Principles and ethical standards should always be followed in interactions with external audit.

Recommendations

- Councils should consider commissioning independent reviews on their Audit Committee effectiveness and whether they meet the CIPFA position statement on Audit Committees (2018) and the recommendations in the Grant Thornton Audit Committee Effectiveness Review 2015
- For members, especially audit committee chairs, consider handover arrangements and ensure all issues of which you are aware are subject to a formal hand over
- Councils must consider and implement an action plan for all outstanding audit recommendations
- Consider what training and resources are required by audit committee members to develop their skills and knowledge
- Ensure the committee produces an annual report on its activities and presents this to Full Council
- Consider implementing an annual self-assessment of audit committee effectiveness
- Treat internal audit and external audit as critical friends – not as suppliers whose fees you need to beat down
- Consider the merits of appointing appropriately qualified independent members to an audit committee
- Consider whether an audit committee is politically balanced and whether a committee would benefit from a membership better balanced between the main parties

A woman with long dark hair and glasses, wearing a black leather jacket over a red top, is looking down at a document. She is holding a yellow pen. To her left, another person is partially visible, holding a large red folder. The background is a blurred office setting with a desk and a computer monitor.

Conclusion

Some of the messages here are the same as those we set out in our first report. The key themes of poor culture and governance and a lack of understanding of the oversight required over associated companies remain a challenge.

The most recent reports have again highlighted a lack of appropriate scepticism, challenge and scrutiny within some councils.

We were pleased to note that some councils did perform a self-assessment against the findings in our previous report. However, these were often limited to a review of systems and procedures.

These self-assessments did not necessarily assess the culture and cultural issues at their council, and this remains a key area where systems break down with ineffective and inappropriate tone and behaviour from the top.

There are no clear or absolute measures to assess whether a council has a poor culture, and weak governance can be even less tangible. Peer challenge and review could be a way councils can work together to offer this insight, alongside ongoing self-assessment.

We would suggest that the concept of continuous improvement describes a process, not a destination. The better councils should assume nothing based on past performance and always be looking for ways to improve. We have seen time and again that ‘hope is not a strategy’ and ‘trust is not a control’. Councils must guard against falling into these ways of thinking.

Some choice quotes

Some phrases included in the interventions which are the subject of this report do catch your attention. These are a few which stood out for us:

“Serious failings have been evidenced in both governance and practice, and in the corporate blindness that failed to pick this up and remedy the position.”

“These weaknesses led to serious governance failings.”

“[officers] could not speak out as they would have wished.”

“There is no evidence that the Council has properly understood the risks involved.”

Councils should reflect on whether any of this could apply to them, and consider what needs to be put in place to address these potential risks. They should strive for an open culture which encourages challenge and criticism. This needs to start with the political leadership and embed itself throughout the organisation. In councils with these interventions, auditors identified aspects of political culture that were not receptive to challenge, scrutiny or different perspectives. This meant that ill thought-out proposals, personal projects and poor stewardship of public funds were able to go unchecked.

Appendix A: Bibliography



The following list are the interventions we have used to form the basis of our lessons learned and associated recommendations in this short report. It should be noted that there have been statutory recommendations made in relation to other councils during the same time period that are not included here.

Statutory Recommendations – Copeland Borough Council **February 2021**

Best Value Inspection – Liverpool City Council **March 2021**

Public Interest Report – York Council **April 2021**

Statutory Recommendations – Slough Borough Council **May 2021**

S114 Notice – Slough Borough Council **July 2021**

Statutory Recommendations – Slough Borough Council **July 2021**

Statutory Recommendations – Thanet District Council **October 2021**

S114 Notice – Nottingham City Council **December 2021**

Statutory Recommendations – Sandwell Borough Council **January 2022**

Public Interest Report – L.B. Croydon **January 2022**

Public Interest Report – Pembrokeshire County Council **January 2022**

Public Interest Report – Blaenau Gwent County Borough **January 2022**

Statutory Recommendations – Copeland Borough Council **March 2022**

S114 Notice – Northumberland County Council **May 2022**

Independent Monitoring Officer report – Thanet District Council **May 2022**

Independent Governance Review – Northumberland County Council **June 2022**

Threatened Statutory Recommendations – Middlesbrough Council **July 2022**

Further Reading

The following documents have been referenced in the report:

The governance risk and resilience framework - Centre for Governance and Scrutiny¹

The CIPFA advisory note on understanding the challenge to local authority governance²

The CIPFA “Local Authority Owned Companies: A Good Practice Guide” report³

Grant Thornton “In Good Company”⁴

Grant Thornton “Spreading Their Wings” – Building a Successful Local Authority Trading Company⁵

1 www.cfgs.org.uk/governancerisk/

2 www.cipfa.org/about-cipfa/cipfas-governance-structure/cipfa-practice-oversight-panel/advisory-notes/understanding-the-challenge-to-local-authority-governance

3 www.cipfa.org/policy-and-guidance/publications//local-authority-owned-companies-a-good-practice-guide

4 www.grantthornton.co.uk/globalassets/1.-member-firms/united-kingdom/pdf/documents/in-good-company-2018.pdf?msclid=5aa2bbced-06c1fecb6727bce550dc353

5 www.grantthornton.co.uk/globalassets/1.-member-firms/united-kingdom/pdf/publication/2015/spreading-their-wings-building-a-successful-local-authority-trading-company.pdf

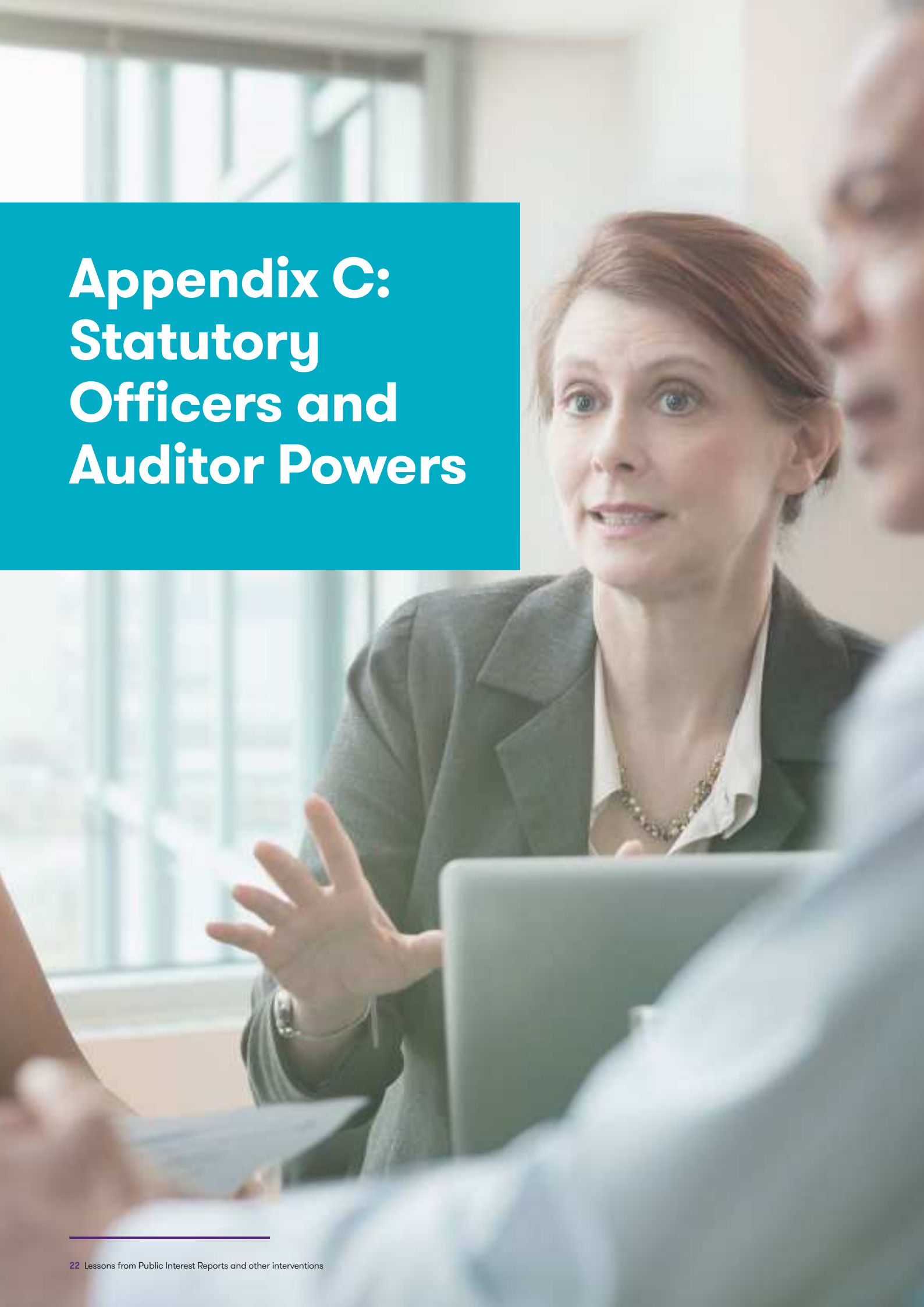
Appendix B: Nolan Principles



The recent PIRs showed that for some councils the culture is not right. Culture must be about selflessly following the Nolan Principles in all aspects of political and officer life. These principles are set out below:

- 1 Selflessness** - Holders of public office should act solely in terms of the public interest.
- 2 Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.
- 3 Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- 4 Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- 5 Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- 6 Honesty** - Holders of public office should be truthful.
- 7 Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix C: Statutory Officers and Auditor Powers



Head of Paid Service

Section 4 of the Local Government & Housing Act 1989 provides that it is the duty of every local authority to designate one of their officers as its Head of Paid Service.

It is the duty of the Head of Paid Service where he or she considers it appropriate to do so, to prepare a report to the authority setting out their proposals as to:

- the manner in which the discharge by the authority of their different functions is co-ordinated;
- the number and grades of staff required by the authority for the discharge of their functions;
- the organisation of the authority's staff;
- the appointment and proper management of the authority's staff.

Regulations made under the Local Government Act 2000 reinforce these duties by making the appointment of staff below chief officer level the exclusive function of the Head of Paid Service or someone nominated by him or her.

The Head of Paid Service is normally the Chief Executive Officer.

Monitoring Officer

The legal basis for this post is found in section 5 of the Local Government & Housing Act 1989, as amended by schedule 5, paragraph 24 of the Local Government Act 2000. The monitoring officer has three main roles:

- to report on matters he or she believes are, or are likely to be, illegal or amount to maladministration;
- to be responsible for matters relating to the conduct of councillors and officers; and
- to be responsible for the operation of the council's constitution.

The role is normally held by the Head of Legal Services.

Section 151 Officer

Section 151 (S151) of the 1972 Local Government Act requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs. The person appointed to the role must be a CCAB qualified accountant. The S151 Officer is the Chief Finance Officer, but titles vary by council.

The S151 Officer must ensure the council sets a balanced budget each year. Legislation describes when a budget is considered not to balance:

- where increased uncertainty leads to budget overspends of a level which reduces reserves to unacceptably low levels
- where an authority demonstrates the characteristics of an insolvent organisation, such as an inability to pay creditors. S151 Officers must interpret this based on the circumstance of their own organisation and should continually monitor income and expenditure in-year. They must also report any unlawful financial activity involving the authority (past, present or proposed). The S151 Officer also has a number of statutory powers in order to allow this role to be carried out, including issuing a S114 Notice.

S114 Notice

Section 114 (S114) of the Local Government Finance Act 1988 requires the S151 Officer, in consultation with the council's Monitoring Officer, to report to all the authority's members if they believe the council is unable to set or maintain a balanced budget.

Such a notice is only given in the gravest of circumstances. This is most likely to be required in a situation in which reserves have become depleted and it is forecast that the council will not have the resources to meet its expenditure in a particular financial year. A full council meeting must then take place within 21 days to consider the notice. In the meantime, no new agreements involving spending can be entered into.

Auditor powers

The following powers are available to the external auditors of a Council:

Statutory recommendations

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly.

Public interest report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish their independent view.

Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
 - is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
 - is about to enter an item of account, the entry of which is unlawful.
-

Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

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