



# Public Interest Reports & Best Value Inspections

Audit Committee - Deep Dive  
4 October 2023



# Public Interest Reports



- Schedule 7, Local Audit and Accountability Act 2014
- Report issued by external auditor
- Issued in the public interest
- Issued where a matter comes to the Auditor's attention and they believe Council should consider that matter or the public should know about it
- Obligation on Council to publish reports, consider it at a public meeting within one month and provide a written response to the auditor.

# Best Value Inspections and Interventions



- Local Government Act 1999
- Requirement on all Councils to deliver “best value”
  - i.e. to be able to demonstrate that the Council is making arrangements to secure continuous improvement in the way in which we carry out our work, having regard to a combination of economy, efficiency and effectiveness*
- Secretary of State can appoint inspectors to determine compliance
- Secretary of State can appoint commissioners to intervene directly, with powers removed from the Council concerned

# Which Councils?



Since 2020, a number of best value or public interest reports have been issued. Links to the all these reports will be provided.

Presentation will focus on:

- Woking Borough Council (district) - best value
- Spelthorne Borough Council (district) - public interest report
- Cheshire East (unitary) - public interest report
- Thurrock Council (unitary) - public interest report
- London Borough of Croydon (london borough) - 2 x public interest reports
- City of York Council (unitary) - public interest report

# Woking Borough Council



## Background

- Borrowing of £1.9bn compared to net budget of £24m
- HRA in deficit before use of reserves even with max allowable rent increase
- Two schemes account for majority of debt - regeneration of Victoria Place, regeneration of Sheerwater housing stock
- March '21 Council applied to DLUHC for exceptional financial support (EFS).
- July '21 DLUHC refused application but continued discussions regarding sustainability of Woking's financial position
- Jan '23 SoS commissioned non-statutory review of governance, finance and commercial aspects of the Council's business
- May '23 [report](#) issued and SoS [intervened](#)
- External review of Minimum Revenue Provision (MRP) policy completed May '23 - £40m charge on budget rather than Council's £11.9m, rising to £23.4m
- Scale of likely deficit relative to size of Council mean no realistic means by which Council can return to financial sustainability on its own.

# Woking Borough Council



## Issues

- Scale of borrowing disproportionate to Council's assets and ability to manage complex commercial activity
- Insufficient regard to level of risk & level of understanding around risk by decision makers
- Decisions taken without full assessment of legal considerations, incl. state aid/subsidy, best value considerations and structure of financial arrangements
- Format of financial information/reporting not fit for purpose
- Delivering/managing regeneration projects by itself, places 100% risk with the Council
- Approach to financing means council is self-funding borrowing costs through additional borrowing, deferring the risk
- Providing social infrastructure for regeneration 'upfront' before profit making elements means Council companies are developing whilst in loss-making phase

# Woking Borough Council



## Issues cont'd

- No commercial strategy in place
- Evidence to suggest that investment decisions were made without appropriate business cases and evidence of robust land valuation
- Options not always fully appraised
- 'Dependency' culture amongst staff where decisions were passed 'up the line'
- Had not always a good relationship between members & officers
- Insufficient capacity and capability to manage the issues the council now faces
- HRA issues driven by 1 regeneration project
- No 30-year business plan for HRA
- Finance team small with no management accountancy/commercial finance expertise

# Woking Borough Council



## What has happened since?

- Risk management training undertaken
- Improvements to procurement/contract management underway
- Project management office function has been established to deliver 'fit for the future' (the priorities identified) - savings, asset management, governance, transformation
- Recruitment freeze and plans to only retain a skeleton staff to run services at 'minimum viable' level are being considered
- New format for monthly financial & performance monitoring developed
- Plans to reduce number of wholly owned companies (currently 23)



# Spelthorne Borough Council



PIR [issued](#) October 2022 by KPMG - related to three commercial property acquisitions in 2017/2018 financial year

## Auditor's view:

- The Council acted unlawfully in borrowing to purchase three commercial properties outside the borough - view supported by a KC
- Even if that was wrong, it failed to have regard to relevant statutory guidance which was itself unlawful
- Inadequate governance arrangements - poor record keeping, lack of clear investment strategy, lack of in-house expertise in that area of investment
- Financial issues - models development simplistic and did not follow industry best practice, doubts over longer term ability to meet loan repayments, predicted return rates below those institutional investors would expect
- £1.1bn and £22m Revenue Budget

# Spelthorne Borough Council



## Spelthorne's [response](#)

- Disagreed on the legality issue - view supported by another KC
- Had been setting money aside against future income dips
- Did not accept models were simplistic 'although it is true to say they became more sophisticated'
- Governance issues were addressed 'some years ago' and record keeping and reporting mechanisms have been improved
- Had expanded its in-house expertise
- Agreed the 5 recommendations from KMPG - albeit in light of their clear difference of opinion

# Cheshire East Council



PIR [issued](#) January 2023 by Grant Thornton - related to the culture of the Council, the role of the Leader of the Council and a particular set of events relating to procurement involving local company during period 2014-2018

Audit investigation delayed by police investigation (2015-2020), police finally announcing that it was not intending to bring any prosecutions.



## Auditor's findings

- Governance failures and Council entered into number of transactions where concerns have since been raised
- Pattern of bullying and inappropriate behaviour by the Leader of the Council (denied by him) which was not addressed by the Chief Executive & the Chief Operating Officer despite their statutory protections - not assertive enough and unable to deal with/stand up to pressure from Leader
- Leader resigned in 2015 and 3 years of destabilisation followed with many senior officers resigning either voluntarily or in the context of unconcluded disciplinary investigations
- Failed procurement of physical education service for children which inappropriately favours a company whose director provided physiotherapy services to the Leader and who was a 'trusted friend'



## Auditor's findings (cont'd)

- Numerous instances where Leader directly and indirectly set out to give an advance to the company
- Leader introduced company to the Council. He secured its involvement in an initial pilot in 2014
- Clear evidence of assistance afforded to the company and arrangements being followed that would not normally be the case
- Subsequent tender in 2015 'abandoned' when company did not come top (5th), claimed justification of 'pricing difficulties' but these had been largely ironed out and Procurement Manager advised contract award could go ahead to highest ranked bidder
- Decision to continue with pilot run by company. Justification unsound. Scope of work increased from £85k to £188k

# Cheshire East Council



## Auditor's findings (cont'd)

- Company did not have adequate or any liability insurance - Leader asked Council's insurance arrangements to be extended to cover
- Safeguarding failing as DBS checks not obtained for staff providing the services for over a year & lack of parental consents
- Dysfunctional environment between senior officers and Leader, and some other politicians
- Elected members micromanaged officers & culture of inappropriate behaviours towards officers in terms of how officers were spoken to, tone set by way the Leader behaved
- High turnover of Monitoring Officers - 6 in 8 year period, BUT Standards regime did not (and does not) have strong enough sanctions to resolve

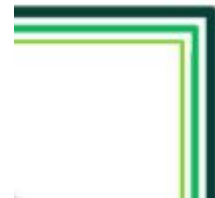
# Cheshire East Council



## Council's response

- Agreed all 3 recommendations including reflection on what happened and how it can protect itself from such threats in future and determining if there are future actions needed with regards to the specific procurement issue
- Have been functional and cultural changes since the events took place
- CLT have wider leadership meetings with all Directors & Heads of Service
- Staff surveys regularly monitor cultural environment
- Council now operates Committee system rather than Leader & Cabinet
- Additional training for members and officers

# Thurrock Council



Intervention on 2 September 2022. Essex County Council appointed as Commissioner.

## Issues

- Council's finances - level of external borrowing (c.£1.5bn, of which £0.94bn from other authorities on short term basis), management of borrowing and generally
- Concerns from Peer review as to financial strategy, decision-making and governance
- Serious allegations about processes applied to commercial strategy
- Scale of financial and commercial risks and failure to provide assurance to DLUHC



# Thurrock Council



## First report (January 2023)

- Scale of deficit £452m net in 2022/2023, £184m in 2023/2024 - s114 report issued December 2022
- Will require long term financial model to be developed for scenarios to recovery
- Work to reduce deficit includes disposal of investments, disposal of property assets, tax increases, significant savings
- Lack of transparency, poor planning and variable quality of decision-making reports but progress on developing way forward
- Need for timely, regular reporting on the monthly management accounts
- Lack of broad reporting on project delivery, risk, audit and performance
- Cannot determine yet if capital programme sustainable and affordable
- Not able to determine if the capacity planning will address all needs

# Thurrock Council



## Extension of intervention powers in January 2023

- All functions associated with council's operating model and redesign of council services to achieve vfm and financial sustainability
- Head of Paid Service powers - appointment and dismissal of statutory officer roles
- All functions to define officer structure for senior positions and recruitment to those roles
- All functions to develop, oversee and operate enhanced performance management framework for those in senior positions
- 10% Council Tax Increase given green light by Government

# Thurrock Council



## Second report (May 2023)

- 2016-2022 Council pursued strategy of borrowing large amounts of money, predominantly from other authorities, for a range of investments to secure a return.
- This enabled political leaders to forestall or avoid difficult decisions on savings, council tax, transformation
- Didn't understand or control the risks
- Level of borrowing £1.3bn (excluding HRA) - annual revenue costs make the Council highly vulnerable financially. Council has limited assets and their sale will not significantly reduce the debt burden
- Repeated failures in delivery of investment strategy & infrastructure/regeneration projects
- Members & Senior Officers attempted to conceal bad news
- Dereliction of political and managerial leadership, inadequate governance arrangements and serious weaknesses in internal control

# Thurrock Council



## Second report (May 2023)

- Lack of openness and transparency, culture of insularity and complacency
- Cabinet failed to take difficult decisions, in years when savings needed to be identified, cabinet members rejected all savings options leaving it to officers to develop plans to achieve a balanced budget
- Need for extended recovery plan to reconfigure Council services around approved priorities, put in place robust performance management arrangements, proper resourcing & functioning of internal controls, including risk management & internal audit
- Needs to be protocols around information sharing, including on decisions made & performance
- Retirement in 1/3rds exacerbated the issues given the 'fine' political balance which existed, constantly in election mode.

# Thurrock Council



## Second report (May 2023)

- Cabinet failed to hold officers to account, current & former cabinet members recognise there was a fundamental lack of curiosity, tenacity and follow-through in the scrutiny of Council investments
- Officers rebuffed those questions that were posed, routinely saying these were ‘operational’ or ‘commercially sensitive’, casual reassurance was provided
- Leaks of information to the press lead to a response of restricting information given to members on the basis of if they are not told, they cannot leak
- Lack of ongoing training for members beyond induction training
- Leadership by Council’s senior officers ‘inadequate’, failure to act as corporate leadership team, silo based working, disproportionate attention on operational performance & transactional discussions
- None had any real knowledge of investment strategy other than s151

# Thurrock Council



## Second report (May 2023)

- Leadership style of former Chief Executive recurring theme - supportive of pastoral issues but this supportive style was not extended to professional issues or matters of performance/delivery where an autocratic style dominated. Clear command and control approach left officers reticent to have open and honest conversations for fear of being blamed or shamed
- Key decisions not appropriately identified
- Reports to members lacked information, none of the reports they examined contained decision requested, key issues, risks, financial implications, legal advice, pros & cons. Many also lacked options for consideration
- Decisions not properly recorded & no record of why a decision was taken
- Scrutiny members were not listened to by senior members

# London Borough of Croydon



1st [PIR](#) issued October 2020 by Grant Thornton concerning the Council's financial position and related arrangements

Followed by [non-statutory rapid review](#) by MHCLG October 2020 and [follow up](#) in November 2021

2nd [PIR](#) issued January 2022 by Grant Thornton concerning the refurbishment of Fairfield Halls and related governance arrangements

[Penn report](#) independent investigation into the reasons for the Council's financial collapse issued February 2023

# London Borough of Croydon



## 1st PIR - Auditor's views

- Council had unsustainably low level of reserves for some time - lowest level of all London Boroughs of General Fund/Earmarked General Fund as percentage of net service revenue expenditure
- Continued to decline since auditors first raised concern 3 years before
- Council not addressed risk
- Significant service overspends in children's and adult's social care (£39.2m), despite applying capital receipts to transformation schemes, still experiences significant overspends and planned growth funding
- Overspends masked by accounting treatment of Dedicated Schools Grant deficit - auditors disagreed with this
- Insufficient challenge by members on financial risks of budget, credibility of income and deliverability of savings plan



# London Borough of Croydon



## 1st PIR - Auditor's views (cont'd)

- Governance around budget setting and monitoring not good enough
- Failure to report budget gap exceeded available reserves
- Drafted but not issued s114 notice September 2020
- Borrowing increased by £545m in 3 years, used to invest in companies and to purchase investment properties
- No real consideration of investment strategy because of guillotine at Council meeting, 1st purchase made before strategy approved
- Governance of companies showed insufficient rigour and control, despite heavy investment Council not yet received any significant return
- Corporate blindness.
- Review of governance not delivered improvements in culture of decision-making

# London Borough of Croydon



## 1st PIR - Council's response

Council accepted all the recommendations in PIR and commissioned Penn Report

## 2nd PIR - Auditor's views

- Council's own identified issues around historical decision-making/governance on refurbishment of Fairfield Halls
- Decision to include refurbishment in a wider land transfer relating to a house building scheme (College Green) added complexity and the challenges around a complex refurbishment were very different to challenges in house building - lack of recognition of this and the risks involved, including the engagement of the procurement regime

# London Borough of Croydon



## 2nd PIR - Auditor's views (cont'd)

- Subsequent change to underlying arrangements within the transfer, only way to avoid procurement process was to place no positive obligation on the 'partner' to carry out the refurbishment works - significant risk
- No properly executed conditional sale agreement/loan agreements exist
- Failure to implement legal advice it received, therefore Council failed to ensure it was acting lawfully
- Failure to protect its interests or comply with best value obligations
- Council could not properly exercise control or oversight of the refurbishment
- Lack of contract meant Council failed to properly exercise its powers to make payments to the 'partner'
- Absence of record keeping

# London Borough of Croydon



## Penn Report

- Interviewed 64 individuals - members, senior managers, staff & external partners
- 'Organisational dysfunction' stemming from poor governance by former political leadership & poor managerial leadership from most senior officers.
- Council blinkered itself to its wider responsibilities by focusing on a small number of commercial, regeneration and other goals
- Failure of focus on the budgetary crisis; culture of poor decision-making and internal managerial & financial controls
- No formal governance controls in respect of loan agreements; toleration of non-compliance and directorate overspending and failure to advise members appropriately

# London Borough of Croydon



## Penn Report

- Budget/investment profile not soundly based
- Officers rarely looked at the Constitution
- Confusion over member/officer roles - members asserted power to control the operational domain and officers permitted this
- Approach to risk management and assurance was good in policy terms but practice was a different picture
- Lack of psychological safety for officers to bring forward concerns and lack of supporting professional learning
- Concerns about actions, inactions and conduct of number of senior officers and recommendation to consider action vs current 3 officers and 2 members (others had left by the time of the report)



[PIR](#) issued by Mazars on 19 April 2021 - early termination of Chief Executive's employment contract

## Auditor's findings

- Business case presented to members did not include sufficient facts in each of the relevant areas outline by HM Treasury guidance and more generally:
  - it included a misleading statement about contractual requirements and elements subject to discretion;
  - it included reference to an annual saving without explaining how this had been calculated;
  - it did not set out assumptions underpinning estimate of legal costs / damages



## Auditor's findings cont'd

- No decision notes to support decisions taken where payments exceeded contractual obligations
- No challenge to claimed figures for defending ET claim nor explanation as to how they had been arrived at
- Conflict of interest on staffing committee, chaired by Leader the CExec's 'line manager' and named respondent in ET claim. Had been told that there was no pecuniary interest because he would be indemnified for financial losses in connection with claim. That was only one element of the test for declaring an interest and was a prejudicial interest and clear conflict of interest

# City of York Council

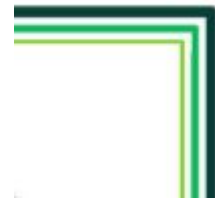
## Council's response

- Accepted recommendations, approved an action plan





# Themes



Recurring themes in all PIRs and BV interventions

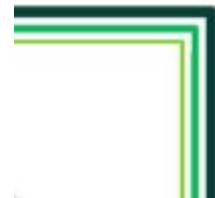
- **Cultural and governance issues**

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).

- **Failure to manage 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 authorities 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'.

# Themes



Recurring themes in all PIRs and BV interventions

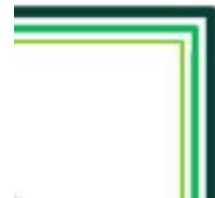
- **Failure to manage difficult relationships**

Deteriorating senior officer and member relationships over a number of years with some councils spending a significant amount of time and resources responding to internal allegations and complaints. The cost of legal advice alone at one council has been in excess of £1m.

- **Financial capability and capacity**

Many council finance departments have suffered from underinvestment with councils attempting to protect front line services. This has impacted on skills and capacity in many cases - significant weaknesses in succession planning, in understanding the financial accounting implications of new and innovative schemes, and in the production of financial statements

# Themes



Recurring themes in all PIRs and BV interventions

- **Audit Committee effectiveness**

A robust internal audit service and audit committee are important lines of defence but are often not used appropriately. Audit committees 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.

- **Capacity, Experience and Skills**

Often the Councils concerned have a prevalence of interims / acting up in senior officer roles. Lack of corporate ownership providing support and direction. Lack of performance management. Loss of corporate knowledge through high turnover of staff for varying reasons, including restructuring.

# Hackney



## The Good

- Reports to members include legal comments, financial comments, assessment of options, risk analysis.
- Decision notices are issued following every meeting
- Council reviewed its Code of Conduct for members in 2020/2021 and a new edition was adopted in January 2022 which took effect at the following elections
- Robust Audit Committee
- PIRs/BVs are discussed by officers at Senior Leadership Group
- New Constitution adopted, which includes company governance arrangements for the 1st time
- Have breadth and depth in our finance team
- Council does not have a hugely significant number of companies
- Robust procurement processes

# Hackney



## The Good

- Level of external borrowing relatively low for the General Fund & HRA (but will increase)
- Effective Scrutiny arrangements, Panel Commissions offer challenge to executive
- Directorate risk registers which are reviewed by Audit Committee
- Level/type of complaints under Code of Conduct indicates no real issue with behaviour by members or relationships with officers
- All out elections means can focus on delivering priorities/strategic plan rather than being in perpetual election mode but could be issue for coming year given the likely number of election

**Always** room for improvement and we are not complacent

# Hackney



## The not quite so good

- Has been a significant turnover in chief officers over past 3 years, although we have retained a core of senior finance & legal officers - risk of loss of impetus, knowledge and stability
- Member training budget is not huge, although additional resources have been found to support more training opportunities



*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.*

***Grant Thornton: Lessons from Public Interest Reports and other interventions Part II (September 2022)***



*Local government is about people and place, managing, delivering, and integrating a range of disparate services to achieve a consistent level of service delivery and community leadership which improves the lives of all of the area's residents ... Doing this in a way that demonstrates compliance and understanding with good local government practice and procedure is a fundamental requirement, particularly when taking the hard decisions that this requires. Understanding democratic accountability, scrutiny, openness, and documentation needs to run right through every part of the organisation.*

**Northumberland County Council Independent Governance Review**  
*(June 2022)*