

London Borough of Croydon Council

Section 24 Statutory recommendations

March 20 2023



Croydon London Borough Council

Bernard Weatherill House,
8 Mint Walk
Croydon CR0 1EA

20 March 2023

Dear Sirs/Madames

Recommendations made under section 24 schedule 7 of the Local Audit and Accountability Act 2014

Our responsibilities

As well as our responsibilities to give an opinion on the financial statements and assess the arrangements for securing economy, efficiency and effectiveness in the Council's use of resources, we have additional powers and duties under the Local Audit and Accountability Act 2014. These include powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Council's accounts and to raise objections received in relation to the accounts.

We have concluded that it is appropriate for us to use our powers to make written recommendations under section 24 of the Act, due to inadequate arrangements and capacity at the Council to prepare reliable financial statements and supporting working papers and concerns regarding the Council's financial sustainability and levels of reserves. Further details are included in the attached report. This report follows Public Interest Reports we issued in October 2020 and February 2022 and the Report issued on November 18 2022 by the Council's Section 151 Officer under s.114 of the Local Government Finance Act 1988.

What does the Council need to do next?

Schedule 7 of the Local Audit and Accountability Act 2014 requires the following actions:

The Council must consider the recommendation at a meeting held before the end of the period of one month beginning with the day on which it was sent to the Council.

At that public meeting the Council must decide

- whether the recommendations are to be accepted, and
- what, if any, action to take in response to these recommendations

Schedule 7 specifies the meeting publication requirements that the Council must comply with.

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Chartered Accountants

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Background to the recommendations

We have concluded that it is appropriate for us to use our powers to make written recommendations under section 24, Schedule 7 of the Act, due to inadequate arrangements in financial management at the Council exposed further by the recent report by the Council's S.151 officer under s114 of the Local Government Finance Act 1988. This report is in addition to public interest reports issued in October 2020 and January 2022 in respect of the Council's financial management, governance and procurement arrangements. The Council's 2019/20 accounts remain unsigned.

Financial management arrangements at London Borough of Croydon Council

In October 2020 we issued a public interest report in respect of the following:

- Overall financial management and financial accounting arrangements
- Significant weaknesses in budgetary control during the year
- Levels of usable reserves
- Financial governance, monitoring and controls relating to Group entities

The Council has changed considerably since this report with a change in both political model (moving to an elected Mayor arrangement in 2022) and political control. All the senior officers overseeing the matters reported in October 2020 have been replaced. The Council now has an independent Improvement and Assurance Panel led by Tony McArdle. New management has been in place since April 2021. This report largely relates to the ongoing legacy of that period.

In January 2022, we issued a further public interest report in respect of Fairfield Halls due to significant failings in appropriate decision making, governance, and control as well as a failure to comply with procurement law in the period 2016-2019. We would also note that during the 2020/21 financial year, the Council's former section 151 officer issued two section 114 notices (S114) in respect of the Council's ability to comply with the law requiring it to set a balanced budget. In November 2022 the Council's current section 151 (S151) officer issued another s114 report in respect of the 2023/24 budget.

The combination of the ongoing budget requirements of these legacy budget adjustments and fundamental structural issues within the Council's finances such as the toxic debt burden of negative equity from historic uncontrolled borrowing and the national and global issues the local government sector is currently facing has undermined the progress being made on the financial recovery. The S151 Officer has concluded that this necessitates a S114(3) Notice to be issued.

The S151 officer's S114 report highlights a number of issues which reflect the ongoing legacy of the financial management standards which had previously fallen well below that which should be expected of a taxpayer funded body. The November 2022 report reflects the following key weaknesses:

- The Council has a legacy of toxic debt which cannot be matched by the value by disposing of related assets
- The Council has significant financial risks associated with Croydon Affordable Homes which has the potential to impact General Fund Reserves by up to £70m
- The Council has identified that the Housing Revenue Account has been overcharged for support costs for a number of years and this will need to be reversed
- The Council's "Opening the Books" exercise has identified legacy budgeting issues that have worsened the financial landscape
- The Council is having to deal with a landscape with revenue inflation of nearly 10% (capital inflation in the economy as a whole is running close to 20%) when the 2022/23 funding settlement was at circa 3% and unlikely to increase in the medium term

Our statutory recommendations are a reflection of the serious nature of the issues identified in the S114 report which reflect the legacy of longstanding weaknesses in financial management at the Council. The recent challenges in setting a lawful budget for 2023/24 suggest that some members have not fully grasped the impact of the legacy financial position.

Background to the recommendations

The Council's legacy financial position and governance weaknesses

Our audit responsibilities under the Audit Code of Practice set by the National Audit Office (NAO) require us to report to the Council annually on our assessment of its arrangements for delivering value or money in respect of Financial Sustainability, Governance and economy and efficiency and effectiveness. In our view, in 2020/21 the Council's arrangements were not adequate in many cases largely due to the historic and systemic failings we identified in our Public Interest Report. In 2021/22 we saw the start of the turnaround although some of these weaknesses remained in place throughout 2021/22. We will report our detailed findings to the April Audit Committee meeting but for the purposes of this report we have identified some ongoing material weaknesses that have their legacy in the last decade but which will need to be addressed:

- The findings from the Regina Road review demonstrated significant failings in the Council's Housing governance
- Internal Audit reviews in 2020/21 and 21/22 continued to find ongoing and systemic weaknesses in the Council's arrangements for procurement and contract management
- The Council has a legacy of poor accounting processes - including routine bank reconciliations that were not completed during 2019/20 or 2020/21 and failing to demonstrate appropriate independent accounting arrangements by processing all company transactions on the Council's general ledger system, despite having a very complex set of companies in its Group
- The Council has historical significant capital accounting weaknesses that require addressing including Croydon Affordable Homes and the Council has never been able to fully demonstrate what transformation it has achieved from its use of capital receipts to support revenue transformation, permitted under DLUHC guidance
- The Council's arrangements to terminate the former Chief Executive employment in August 2020 were reviewed by the current management and reported to the Appointments Committee in April 2022 and Full Council in December 2022. Whilst the reports found no evidence that the payments to the former CEO were *ultra vires*, the lack of rigorous challenge and consideration of alternatives demonstrated in August 2020 was below the standard we would expect from a public body.

The 2023/24 budget and beyond

In her s.114 report the S151 officer has noted that:

“The more significant problem for the Council is that the work which has been done in preparation for the 2023/24 Council Tax Setting in February or March 2023 has identified that expenditure the authority is projected to incur in each year of the period 2023/24-2026/27 will exceed resources (including sums borrowed) available to the Council to meet that expenditure. The combination of the ongoing budget requirements of these legacy budget adjustments,

fundamental structural issues within the Council's finances such as the toxic debt burden of negative equity from historic uncontrolled borrowing and the national and global issues the local government sector is currently facing has undermined the progress being made on the financial recovery. The S151 Officer has concluded that this necessitates a S114(3) Notice to be issued.”

We have also noted that the Secretary of State has given the Council permission to raise the Council Tax for 2023/24 by up to 15%. Whilst there are wider political and social implications of such a decision, it will, in part, start to address the Council's financial position.

As our previous public interest reports have set out, better use of taxpayers money in the past may have obviated the need for such increases at this time. Members must own the decisions of the past and use their roles to ensure rigorous scrutiny in spending in the next few years. Members should focus on the best outcomes for Croydon residents and minimising the political divisions that have characterised the past.

We would also note the Ministerial Statement of 16 March 2023 introduces directions which give the Improvement and Assurance Panel the power to issue instructions to the Council and requires the Panel to report to Ministers on the Council's progress every six months.

Page 5 sets out our statutory recommendations.

Recommendations made under section 24 schedule 7 of the Local Audit and Accountability Act 2014

| Area | Recommendation | Management Response/Responsible Officer/Due Date |
|-------------------------------------|---|---|
| Addressing the s114 report | <p>The Council should put in place robust arrangements to address and implement the recommendations of the s151 officer set out in her section 114 report. In our view the Council should:</p> <ul style="list-style-type: none"> Finalise the root and branch review of financial management in all service departments and in respect of corporate decisions as part of the Opening the Books exercise Resolve the accounting arrangements in respect of Croydon Affordable Homes Invest significant extra resource (when possible) in finance capacity, internal audit and risk management to ensure robust processes are brought into place to monitor progress and meet statutory financial obligations Demonstrate clearly to Council tax payers how the additional Council tax for 2023/24 has been properly controlled and demonstrates improvements in value for money arrangements. | See report to Council on 29 th March 2023- Appendix B |
| Improving governance at the Council | <p>The Council should develop a comprehensive project plan for the improvement in governance arrangements:</p> <ul style="list-style-type: none"> Develop an action plan to clear the three outstanding years of accounts and audit by June 2024 Develop and enhance governance process for all key investment decisions and develop a Panel to address the accounting implication of all capital investments Enhancing existing officer control activities by ensuring the Scrutiny Committee robustly challenges the monthly budgets report from officers from a governance and control perspective. Ensure that the lessons learned from the former CEO's termination payments, as set out to Full Council in 2022, are applied to all future Chief Officer severance payments | See Report to Council on 29 th March 2023 – Appendix B |

