



Report to Audit & Governance Committee

Date:	25 th January 2022
Title:	Lessons Learnt from Other Local Authorities
Cabinet Member(s):	N/A
Contact officer:	Mark Preston, Head of Projects & Pensions
Ward(s) affected:	N/A
Recommendations:	Audit & Governance Committee are invited to NOTE the report.
Reason for decision:	N/A

1. Executive summary

- 1.1 Since the best value inspection report for Northamptonshire County Council was published in March 2018 with a conclusion that it had “failed to comply with its duty to provide best value in the delivery of its services”, a number of other high-profile incidences have subsequently brought into sharp focus the financial management and governance arrangements of local authorities. There have been the public interest reports at Nottingham City Council (August 20), Croydon London Borough Council (October 2020) and Northampton Borough Council (January 2021), the best value inspection report into Liverpool City Council (March 2021) and the section 114 notice issued by Slough Borough Council, which followed closely behind the critical 2018/19 audit by Grant Thornton.
- 1.2 There are several factors that have had an impact on local authorities in recent years. After years of reduced 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 authorities increasing commercialisation and develop different vehicles to facilitate this, including partnership ventures, joint ventures, limited companies and Teckal companies. The

recent Public Interest reports have shown that the failure of council owned companies can have a devastating effect.

- 1.3 Grant Thornton have summarised the key issues arising out of the recent Public Interest and Best Value reports (see Appendix 1) into 5 main areas:
 - Financial Management
 - External Companies
 - Organisational Culture
 - Risk Management, Assurance and Audit
 - Relationships and Decision Making
- 1.4 Furthermore, from a political and governance perspective, the key issues identified related to:
 - Member conduct and behaviour
 - Legal capacity
 - Confusion of roles and delegations
 - Poor scrutiny arrangements
- 1.5 In addition, the Department for Levelling Up, Housing and Communities (DLUHC) has also produced its own lessons learned document: *'Addressing cultural and governance failings in local authorities: lessons from recent interventions'* which seeks to provide guidance on recognising poor culture and weak governance.
- 1.6 DLUHC do not consider the following list definitive, but they have been identified in the various inspections undertaken.
 - lack of effective political and/or corporate leadership, including an overreliance on interim statutory officers
 - a lack of corporate capacity, resulting in a lack of strategic vision and direction, and inadequate internal processes
 - poor and inappropriate councillor conduct
 - conflict and distrust among and between councillors and senior officers
 - the absence of effective scrutiny, transparency, and public consultation, including inadequate protections for whistle-blowers
 - a lack of awareness and acceptance of the need for improvement; and insufficient capacity to achieve the change required
- 1.7 The Commissioners appointed at Northamptonshire County Council in 2018 following the Best Value Inspection, published their 'Lessons Learned Report' and

made recommendations to the local authority sector, which are set out in Appendix 2.

1.8 Regarding external companies, CIPFA identify that there are some common issues among councils holding companies and these are generally linked to organisational governance, leadership, capacity, financial stability and culture, including:

- a lack of understanding of roles and responsibilities
- a lack of skills around commercial decision making
- an optimism bias that does not reflect the true position
- a lack of strategic rationale surrounding the creation of companies
- a reluctance to listen to challenges.

Building on the 2019 financial management code, CIPFA plans to extend its financial sustainability work by developing additional guidance on council-owned companies.

2. Buckinghamshire's Position

Political and Governance Issues

2.1 As the DLUHC report states, there are no clear or unequivocal quantitative measures to assess whether a council has a poor culture, and weak governance can be less tangible and visible from the outside. The report notes that peer challenge/reviews can provide insight into some of these issues.

2.2 A recent presentation to the LLG Governance Conference by Max Caller on his experience of Best Value Inspections, highlighted key indicators that likely problems exist, namely:

- Interim statutory Officers in place.
- Member complaints that they cannot get access to information and must use Freedom of Information Requests instead.
- Culture of secrecy and overuse of confidential reports reducing openness.
- Poor Local Authority Company governance.

2.3 In addition, there was significant emphasis on cultivating an open and transparent culture. This included:

- Reviewing and ensuring delegations were appropriate and were being properly used.
- Ensuring that staff had the ability to raise concerns/whistleblow with senior management and senior management encouraged this.

- 2.4 In many problem cases, there was not a single record relating to the relevant transactions, so it was difficult to coordinate decision making or verify that appropriate delegations had been discharged.
- 2.5 Notwithstanding the recent formation of Buckinghamshire Council, on most of the above measures Buckinghamshire could boast of having very strong political and corporate leadership, with a clear strategic vision and direction. There are detailed internal processes for decision making and a good understanding by officers of those processes, good report writing and professional advice. Whilst there are some incidents of inappropriate Councillor conduct, there are robust mechanisms in place to address these and, generally, conduct is of a very high standard with a comprehensive complaints procedure and training on the Code of Conduct in place for all Councillors. Regular advice and assistance to Members is provided by the Monitoring Officer.
- 2.6 With robust political leadership there can be tensions between officers and members, and the acceptance by members of officer advice and recommendations. But members are well-aware of the role of officers and there are detailed constitutional provisions regarding their respective roles. In the main, relationships of trust are maintained.
- 2.7 Since the election in May 2021, Scrutiny/Select Committees have been formed with independently minded Chairman and detailed work plans. Regular meetings of Scrutiny Chairman and Cabinet members are organised and constructive challenge and detailed reviews of council business is welcomed. Similarly Audit and Standards Committees play an important role in overseeing risk and governance issues, together with a regular review of the constitution.
- 2.8 The Constitution sets out a detailed set of delegations both to the various Committees but also officers, and individual Directorate have schemes of delegation in place.

Financial Issues

Reserves

- 2.9 A lack of a prudent level of reserves is one of the key themes that emerges from these reports, which significantly reduces a council's ability to respond to financial pressures that may emerge.
- 2.10 It is generally accepted by external auditors that councils should hold at least 5% of net operating expenditure in General Fund reserves (including earmarked reserves).
- 2.11 Buckinghamshire has a healthy reserves position. In setting the budget at Council, in February 2021, it was reported that the Council had c£47m in unallocated General Fund reserves (excluding earmarked reserves) which is approximately 10% of the Council's net operating budget.

- 2.12 The Council is therefore in a strong position to deal with any financial risks that may emerge, especially given there are earmarked reserves set aside for specific known risks. There has been a commitment to the quarterly monitoring of reserves as part of the 'Financial Sustainability Action Plan'.

Misuse of Capitalisation

- 2.13 Whether through the general misuse of capitalisation of revenue or the use of capitalisation that fails to deliver the intended benefits of reduced demand/costs or efficiency savings, capitalisation is a tool that should only be used where there are clear benefits of the investment rather than purely a means to reduce revenue pressures. There were also audit queries relating to LB of Croydon's 2019-20 accounts in respect of capitalised transformation expenditure, with auditors trying to establish appropriate evidence to support the transformation activity.
- 2.14 Capital resources are just as constrained as revenue resources and therefore it is important to make sure that business cases for capital investment are robust and can clearly demonstrate the benefits that are gained from the investment made, comparing these to the ongoing revenue borrowing costs.
- 2.15 The £100m prudential borrowing facility approach allows Cabinet to carefully scrutinise business cases before they are approved to ensure that there is clarity and confidence in the benefits that can be delivered.
- 2.16 There is a thorough review of charges to the capital programme each year to ensure that all costs are genuinely capital. The external auditor tends to take a keen interest in testing to ensure the capitalisation regulations had been appropriately applied, and hence why these checks are in place.

Minimum Revenue Provision Calculation

- 2.17 The miscalculation of the MRP was a factor in the Slough Borough Council s151 Officer issuing a s114 notice. The MRP ensures that a council is setting aside a prudent level of revenue resources to pay off any borrowing. The issue for Slough was that this error had been exacerbated by the fact the Council's borrowing had quadrupled from £180m to £760m during the period the error was made. This would have significant revenue implications for any Council having to rectify this situation.
- 2.18 The MRP approach for Buckinghamshire has been recently reviewed as there was a need to agree a single MRP policy for the new council following a review of the previous legacy council policies.
- 2.19 We are confident therefore, that the Council has adopted and is applying its MRP policy correctly.

Continued Financial Support/Loans to Failing Ventures/Companies

- 2.20 Nottingham City Council continued to provide financial support and loans to its struggling energy company, in a move described as auditors as being “institutionally blind” to the risks involved due to the determination of councillors that it should succeed. This resulted in a £34.4m loss for the Council.
- 2.21 In LB of Croydon, their Property Company ‘Brick by Brick’ was entirely dependent on funding from the Council and had borrowing of c£200m, against a backdrop of limited financial reporting and underperformance against its business plan. There was also increased borrowing for the purchase of investment properties.
- 2.22 The Council does not have any failing companies, but that does not mean the Council shouldn’t be vigilant in this area. The key is making sure that there is organisational oversight of the financial plans and performance of our companies, partnerships and joint ventures. The original ‘Financial Sustainability Action Plan’ already covers this with the setting up of a Companies & Partnerships Oversight Board. The action plan also commits to a review of the financial position for the Farnham Park and Higginson Park Trusts.
- 2.23 Buckinghamshire’s Capital and Investment Strategy has moved away from any investment purely for yield and instead is focusing on Regeneration, Economic Development and Housing in particular. It carries out an annual review on the investment properties it does hold to ensure that the investments continue to be appropriate for the medium to long term, understand the alternative options available to it and consider any strategic changes.
- 2.24 The Council will continue to carry out due diligence on any loan requests from any external company, organisation and related parties to ensure that the underlying business case is sound as it would do if it were itself making an investment decision.
- 2.25 It would be of significant benefit to make sure that all directorship/representative roles have comprehensive training to ensure they fully understand their role and responsibility as a Council director/representative.

Inadequate Financial Challenge or Urgency in Dealing with Overspends or Non-Delivery of Savings

- 2.26 For a number of the authorities concerned, not taking appropriate and timely action when either budget overspends or the likely undeliverability of budget savings was a concern. The lack of appropriate action when issues arose contributing to the general financial pressures for the organisations concerned.
- 2.27 Buckinghamshire has an extensive process of review and challenge when it comes to the MTFP budget setting process. This allows budget plans to be reviewed and when savings are deemed no longer deliverable or new pressures emerge, there is a requirement for Directorates to find alternative savings or if the pressure is

significant, it is incorporated into the overall budget setting process to ensure a balanced budget can be delivered.

- 2.28 The CMT Budget Board, also allows a specific focus on financial performance and issues, enabling agreed courses of action to be taken to address any financial issues.
- 2.29 Additionally, as part of the original 'Financial Sustainability Action Plan', monthly Budget Boards were established for all directorates to enable a directorate focus on financial performance and issues that can feed more readily into CMT Budget Board.

Failure to Follow Contract Standing Orders, Overuse of Waivers and Exemptions

- 2.30 In Liverpool especially, there was a weakness in terms of following Contract Standing Orders, with an increased reliance on contract waivers and exemptions. There were also weaknesses in terms of ensuring best value in terms of the disposal of property on top of general weaknesses.
- 2.31 There is a strong Strategic Procurement team in Buckinghamshire, and although there is always room for improvement in terms of absolute compliance, there is a strong framework in place to support the Council.
- 2.32 Contract waivers and breaches are regularly reported to Audit and Governance Committee and any serious control weakness in this area would become immediately apparent and can be addressed if necessary.
- 2.33 For the disposal of property, it is standard procedure to ensure that a s123 valuation is undertaken before it is sold to confirm that the disposal arrangements are value for money for the Council.

3. Next steps and review

- 3.1 The main financial considerations for Buckinghamshire were picked up as part of the original 'Financial Sustainability Action Plan'. This original action plan has been enhanced with lessons learnt since that was first established, particularly around governance issues, and is included at Appendix 3. The focus will be on continuing to implement the action plan and monitoring any new issues that might emerge within the sector from other Councils.

4. Background papers

- 4.1 [Cabinet Paper 02 March 2021: 'Financial Sustainability – Comparison with LB Croydon'](#)

5. Your questions and views (for key decisions)

- 5.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the

cabinet member to consider please inform the democratic services team. This can be done by telephone [] or email []

